

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

SB 304 cont. 96

1 interest the lien applies resides at the time of recording of the
2 notice of lien.

3 (d) For purposes of (c) of this section the residence of a cor-
4 poration or partnership is the place in which the principal executive
5 office of the business is located.

6 Sec. 40.19.030. EXECUTION OF NOTICES AND CERTIFICATES. Certi-
7 fication of notices of lien, certificates, or other notices affecting
8 federal liens by the United States Secretary of the Treasury or by the
9 designee of the United States Secretary of the Treasury, or by an
10 official or entity of the United States responsible for filing, re-
11 cording, or certifying, of notice of any other lien, entitles the
12 notices or certificates to be recorded and further attestation, certi-
13 fication, or acknowledgement is not necessary.

14 Sec. 40.19.040. DUTIES OF RECORDER. (a) If a notice of federal
15 lien, a rerecording of notice of federal lien, or a notice of revoca-
16 tion of a certificate described in (b) of this section is presented to
17 the recorder under AS 40.17, the recorder shall endorse on the notice
18 an identification and the date and time of recording and enter it
19 first in the daily log of documents and then in an alphabetical index
20 showing the name of the person named in the notice, the date and time
21 of recording, the title of the official or entity certifying the lien,
22 and the total amount appearing on the notice of lien.

23 (b) If a rerecorded notice of federal lien referred to in (a) of
24 this section or a certificate of release, nonattachment, discharge, or
25 subordination of lien or a revocation of any of these certificates is
26 presented to the recorder for recording, the recorder shall record it
27 in the way a document listed in (a) of this section would be recorded
28 and shall enter the rerecorded notice or the certificate or revocation
29 with the date of recording in the alphabetical index together with a

1 reference to the recording information for the original notice or
2 certificate to which it relates.

3 (c) A lien on file with records of a recording district on the
4 effective date of this section is considered to have been recorded at
5 the date and time it was filed.

6 (d) In this section "rerecording" includes recording of a lien
7 previously filed.

8 Sec. 40.19.050. UNIFORMITY OF APPLICATION AND CONSTRUCTION. To
9 the extent the provisions of this chapter follow the Uniform Federal
10 Lien Registration Act (1978) they shall be applied and construed to
11 effectuate their general purpose to make uniform the law with respect
12 to the subject of this chapter among the states enacting it.

13 * Sec. 39. AS 43.10.042 is repealed and reenacted to read:

14 Sec. 43.10.042. RECORDING LIEN AND CERTIFICATE OF DISCHARGE.

15 (a) A lien imposed under this title is not valid as against a mort-
16 gagee or other lien holder, pledgee, purchaser, or judgment creditor
17 until notice of it is recorded in the records of the recording dis-
18 trict where the property subject to the lien is situated. However,
19 regardless of the date the liens are recorded, a lien arising out of a
20 tax due under AS 43.56 and AS 43.75, including the penalties and
21 interest on the tax, is a lien prior, paramount, and superior to all
22 other liens, mortgages, hypothecations, conveyances, and assignments,
23 upon all the real and personal property of the person liable for the
24 tax, and upon all the real and personal property used with the permis-
25 sion of the owner to carry on the business that is subject to the tax.

26 (b) AS 40.19.040 applies to a notice of state tax lien and
27 documents relating to a state tax lien as well as to a notice of
28 federal lien and documents relating to a federal lien.

29 * Sec. 40. AS 44.37.025 is amended to read:

1 Sec. 44.37.025. RECORDING. (a) The Department of Natural Re-
2 sources shall adopt regulations [,] establishing, modifying, or dis-
3 continuing recording districts or precincts and prescribing the re-
4 cords to be maintained and the instruments to be recorded, consistent
5 with AS 40.17.

6 (b) The department shall [ENGAGE AND COMPENSATE RECORDERS AND
7 DEPUTY RECORDERS,] prescribe and account for recording fees [,] and do
8 all other things necessary to maintain the recording system estab-
9 lished under the laws of this state. The commissioner of adminis-
10 tration shall separately account for fees collected under this section
11 that the Department of Natural Resources deposits in the general fund.
12 The annual estimated balance in the account may be used by the legis-
13 lature to make appropriations to the department to carry out the
14 purposes of this section.

15 (c) The department, with the concurrence of the administrative
16 director of courts, may appoint judicial employees to perform services
17 in connection with recording, providing access to, and copying [RE-
18 CORD] documents in locations where the department has no employees
19 available to perform those functions [SERVE AS RECORDERS].

20 (d) The department shall file with the commissioner of commerce
21 and economic development a copy of each conveyance recorded that
22 contains a statement that property is conveyed to a nonresident alien
23 or for the benefit of a nonresident alien.

24 * Sec. 41. In the following statutes the revisor of statutes is di-
25 rected to delete the requirement or permission that a document be filed or
26 filed for record and to substitute a corresponding requirement or permis-
27 sion that the document be recorded: AS 09.40.050; AS 09.55.370; AS 10.15.-
28 230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.047;
29 AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050,
CSSB 304(Fin)

1 27.10.060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.-
2 10.230; AS 32.10.010, 32.10.240; AS 34.07.070; AS 34.20.090; AS 34.35.065,
3 34.35.160, 34.35.185, 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.-
4 405, 34.35.440; AS 38.05.195, 38.05.200, 38.05.205, 38.05.210, 38.05.220,
5 38.05.230, 38.05.245, 38.05.250, 38.05.265, 38.05.275; AS 38.20.100;
6 AS 45.09.402(f); and AS 46.15.160.

7 * Sec. 42. AS 34.15.260, 34.15.270, 34.15.280, 34.15.290, 34.15.300,
8 34.15.310, 34.15.320, 34.15.330, 34.15.340, 34.15.345, 34.15.350; AS 34.-
9 20.020; AS 43.10.090, 43.10.100, 43.10.110, 43.10.120, 43.10.130, 43.10.-
10 140, and 43.10.150 are repealed.

11 * Sec. 43. This Act takes effect January 1, 1989.
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Original sponsor: Rules/Legislative Council

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 304 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to filing and recording, recordable
7 documents, conveyances, plats, and platting author-
8 ities; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 40 is amended by adding a new chapter to read:

11 CHAPTER 17. RECORDING IN PUBLIC RECORDS.

12 Sec. 40.17.010. PLACE OF RECORDING AND ACCESS TO RECORDS. (a)

13 The Department of Natural Resources shall provide at each public
14 office designated by the department

15 (1) the documents and indices or alternative document re-
16 trieval system of the recording district or districts served by that
17 public office;

18 (2) a machine, device or system with which to retrieve
19 stored documents;

20 (3) a means for making copies of recorded documents and a
21 person authorized by the recorder to certify the copies;

22 (4) to the extent money is appropriated for the purpose, a
23 machine, device, or system capable of rapidly transmitting a document
24 eligible for recording to a recorder at one place of recording in the
25 state, and a person to operate the machine, device, or system; if the
26 department determines that it is not feasible to provide a machine,
27 device, or system in an office serving a recording district, it shall
28 provide for transmitting documents from the office by other expedi-
29 tious means;

1 (5) instructions that explain to the public the formal
2 requirements that a document must satisfy to be recorded.

3 (b) The department shall provide the staff and equipment to re-
4 ceive and record documents and to store them permanently.

5 (c) The recorder shall record class B documents at a single
6 place in the state designated by the department. Other recording
7 offices may not accept a class B document for recording.

8 (d) When rapid recording and retrieval and secure storage of
9 class A documents can be provided for all recording districts with a
10 single place of recording in the state, the recorder shall record the
11 documents at a single place in the state designated by the department.

12 (e) The recorder shall provide reasonable public access during
13 business hours to recorded documents, indices, and facilities provided
14 for in this section.

15 Sec. 40.17.020. RECORDING CONVEYANCES. (a) A conveyance that
16 is eligible for recording as a class A document under AS 40.17.030 and
17 40.17.110 may be recorded only as a class A document, and only in the
18 records of the recording district in which land affected by the con-
19 veyance is located. If land affected by the conveyance is located in
20 more than one recording district, an original conveyance may be re-
21 corded in the records of any district in which part of the land is
22 located and an original or a certified copy may be recorded in the
23 records of each other district in which part of the land is located.
24 A certified copy so recorded has the same effect from the time it is
25 recorded as though it were the original conveyance.

26 (b) A certified copy of a conveyance that is eligible for re-
27 cording as a class A document under AS 40.17.030 and 40.17.110 and
28 that has been recorded or filed in a public recorder's office in
29 another state or in the United States Bureau of Land Management may be

1 recorded only as a class A document, and only in the records of a
2 recording district where land affected by the conveyance is located.
3 When so recorded, it has the same effect from the time it is recorded
4 as though it were the original conveyance.

5 Sec. 40.17.030. FORMAL REQUISITES FOR RECORDING. (a) To be
6 eligible for recording, a document must be

7 (1) legible or capable of being converted into legible form
8 by a machine or device used in the recording office;

9 (2) capable of being copied by the method used in the
10 recording office;

11 (3) accompanied by the proper fee for recording and include
12 or be accompanied by information, stamps, certificates, taxes, or fees
13 that under other laws are necessary to qualify the document for re-
14 cording;

15 (4) accompanied by or include the information needed to
16 index a class A document under regulations of the department, or the
17 names needed to index a class B document under AS 40.17.040(c);

18 (5) accompanied by or include the name and address of the
19 person to whom the document is to be returned after recording; and

20 (6) accompanied by or include the mailing addresses of all
21 persons named in the document who grant or acquire an interest under
22 the document if it is a conveyance; this paragraph does not apply to a
23 release of a security interest.

24 (b) A class B document may not be recorded unless, in addition
25 to the name required in (a)(5) of this section, it is accompanied by
26 or includes the name of the person in whose behalf the document is
27 recorded.

28 (c) A signature, acknowledgment, seal, or witness is required
29 for a document to be eligible for recording only when required for the

1 specific document by this chapter or by other law.

2 (d) A name, address, or other information required by this
3 section shall be contained in the document that is to be recorded, or
4 shall be recorded with the document.

5 (e) The recorder shall prescribe the style, size, form, and
6 quality that a plat, plan, or survey map must satisfy for filing and
7 recording under this chapter.

8 Sec. 40.17.040. INDEXING. (a) A document shall be indexed
9 based on its classification under AS 40.17.110.

10 (b) The recorder shall maintain an index system for class A
11 recorded documents in the manner prescribed by regulations adopted by
12 the department. The system shall be designed so the public may find
13 class A documents by names of grantors and grantees, and the system
14 may include other means for locating the documents. The recorder
15 shall maintain the index to class B documents at the one place of
16 recording for class B documents.

17 (c) For class B documents, the recorder may not make index en-
18 tries other than the name or names chosen for indexing by the person
19 who presents the document for recording, the date of recording, and
20 the serial number or identifying code of the document.

21 (d) The declaration for a common interest community under
22 AS 34.08 shall be indexed in the grantee's index in the name of the
23 common interest community and the association and in the grantor's
24 index in the name of each person executing the declaration.

25 Sec. 40.17.050. INCORPORATION OF MASTER FORM. A recorded master
26 form, or a numbered paragraph of it, may be incorporated by reference
27 in a recorded document by referring to the form by its recording
28 information and the number of the paragraph to be incorporated. The
29 reference has the same effect as if the master form or the numbered

1 paragraph were reproduced in full in the record at the place where the
2 reference to the form or paragraph is made.

3 Sec. 40.17.060. DOCUMENTS EXECUTED UNDER FORMER LAW. If a docu-
4 ment included under AS 40.17.110(b) or (c) was executed in accordance
5 with the law in effect at the time the document was executed, the
6 document remains recordable as a class A document regardless of later
7 amendments to the law changing the manner in which that document is to
8 be executed.

9 Sec. 40.17.070. DUTIES OF RECORDER. (a) The recorder shall
10 promptly record all documents presented that are recordable under
11 AS 40.17.020, 40.17.030, and 40.17.110.

12 (b) The recorder shall maintain separate daily logs and indices
13 for class A and class B documents with a separate system of serial
14 numbers for each class. The daily log and index for class B documents
15 shall be maintained in the central recording office.

16 (c) As a document is recorded, the recorder shall

17 (1) indicate on or attach to each class A document the
18 date, hour, and minute of recording, enter that information and a
19 consecutive serial number in a daily log of class A documents without
20 delay in the order in which the documents are received, and note the
21 serial number on the document;

22 (2) indicate on or attach to each class B document the date
23 of recording, enter the date of recording and a consecutive serial
24 number in a daily log of class B documents, and note the serial number
25 on the document.

26 (d) The recorder shall mark each document to show in which class
27 it is recorded. If a document presented for recording is reviewed and
28 rejected for recording as a class A document, the recorder shall
29 indicate on or attach to the document the date, hour, and minute of

1 rejection and a citation of the statute requiring rejection. If the
2 document is later determined to be recordable as a class A document in
3 the form in which it was earlier presented to the recorder, later
4 recording does not relate back to the time and date of rejection.
5 Recording is effective when the document is accepted for recording,
6 regardless of the cause of the rejection.

7 (e) The recorder shall promptly copy recorded documents and
8 place them in permanent records and shall note the recording informa-
9 tion at the entry of each document in the daily log.

10 (f) Promptly after recording a document, the recorder shall make
11 the index entries required in this chapter and in the regulations of
12 the department.

13 (g) After recording, the recorder shall return the document to
14 the person who presented it or a person designated by the person who
15 presented it.

16 (h) The recorder shall certify copies and provide a certified
17 copy of a recorded document to a person who tenders the proper fee.

18 (i) The recorder is not required to record part of a document if
19 the part is identified and preceded by the words "From Previously
20 Recorded Master Form--Do Not Record" and the recorded part contains a
21 reference to the master form's recording information.

22 Sec. 40.17.080. EFFECT OF RECORDING ON TITLE AND RIGHTS: CON-
23 STRUCTIVE NOTICE. (a) Subject to (c) and (d) of this section, from
24 the time a class A document is recorded in the records of the record-
25 ing district in which land affected by it is located, the recorded
26 document is constructive notice of the contents of the document to
27 subsequent purchasers and holders of a security interest in the same
28 property or a part of the property. Recording of a class B document
29 does not provide constructive notice for any purpose.

1 (b) A conveyance of real property in the state, other than a
2 lease for a term of less than one year, is void as against a
3 subsequent innocent purchaser in good faith for valuable consideration
4 of the property or a part of the property whose conveyance is first
5 recorded as a class A document. An unrecorded conveyance is valid as
6 between the parties to it and as against one who has actual notice of
7 it. In this subsection, "purchaser" includes a holder of a consensual
8 interest in real property that secures payment or performance of an
9 obligation.

10 (c) The recording of an assignment of a security interest is not
11 in itself notice to the debtor. The debtor may pay the assignor
12 unless the debtor has actual notice of the assignment.

13 (d) A recorded option or agreement to enter into a contract in
14 the future ceases to be constructive notice for any purpose

15 (1) when six months have elapsed after the date of record-
16 ing of the option or agreement, if the recorded option or agreement
17 contains no expiration date;

18 (2) when 30 days have elapsed after the expiration date of
19 the option or agreement, if the recorded option or agreement contains
20 an expiration date.

21 Sec. 40.17.090. CONVEYANCES AND RECORDED DOCUMENTS AS EVIDENCE.

22 (a) A conveyance that is acknowledged, proven, or certified under
23 AS 34.15.150 - 34.15.250 is admissible as evidence of the conveyance
24 without further proof.

25 (b) An acknowledged and recorded signed document relating to
26 title to real property creates presumptions with respect to title that

27 (1) the document is genuine and was executed as the volun-
28 tary act of the person purporting to execute it;

29 (2) the person executing the document and the person on

1 whose behalf it is executed are the persons they are purported to be
2 and the person executing it was neither incompetent nor a minor at any
3 relevant time;

4 (3) delivery of the document occurred notwithstanding a
5 lapse of time between dates on the document and the date of recording;

6 (4) any necessary consideration was given;

7 (5) the grantee, transferee, or beneficiary of an interest
8 created or claimed by the document acted in good faith at all relevant
9 times up to and including the time of the recording;

10 (6) a person purporting to act as an agent, attorney in
11 fact under a recorded power of attorney or authority, officer of an
12 organization, or in a fiduciary or official capacity, held the posi-
13 tion the person purported to hold, acted within the scope of the
14 person's authority, and in the case of an organization, the authoriza-
15 tion satisfied all requirements of law; and in the case of an agent,
16 acted for a principal who was neither incompetent nor a minor at any
17 relevant time and who had not revoked the agency;

18 (7) if the document purports to be executed in accordance
19 with or to be a final determination in a judicial or administrative
20 proceeding, or to be executed under a power of eminent domain, the
21 court, official body, or condemnor acted within its jurisdiction and
22 all steps required for the execution of the title document were taken;

23 (8) the recitals and other statements of fact in a convey-
24 ance are true if the matter stated is relevant to the purpose of the
25 document;

26 (9) the persons named in, signing, or acknowledging the
27 document and persons named in, signing, or acknowledging another
28 related document in a chain of title are identical, if the persons
29 appear in those documents under identical names, or under variants of

1 the names, including inclusion, exclusion, or use of
2 (A) commonly recognized abbreviations, contractions,
3 initials, or colloquial or other equivalents;
4 (B) first or middle names or initials;
5 (C) simple transpositions that produce substantially
6 similar pronunciations;
7 (D) articles or prepositions in names or titles;
8 (E) descriptions of entities as corporations, com-
9 panies, or abbreviations or contractions of either; or
10 (F) name suffixes, such as "Senior" or "Junior",
11 unless other information appears of record indicating that they
12 are different persons; and
13 (10) all other requirements for the execution, delivery and
14 validity of the document have been satisfied.
15 (c) The presumptions stated in (b) of this section arise even if
16 the document purports only to release a claim or convey an interest of
17 the person executing it or of the person on whose behalf it is exe-
18 cuted.
19 (d) Facts stated in a recorded certificate of a public official
20 in affidavit form or under the seal of the official's office and
21 derived from information or documents obtained or kept by the official
22 as part of official duties are presumed to be true.
23 (e) If presumptions created by this section are inconsistent,
24 the presumption applies that is founded upon weightier consideration
25 of policy and logic. If these considerations are of equal weight,
26 neither presumption applies.
27 Sec. 40.17.100. RECORDING A RECONVEYANCE. When the parties to a
28 recorded conveyance absolute in its terms intend it to serve only as
29 security for repayment of a debt, the conveyance is absolute as to all

1 persons who rely upon it in good faith and for value before a recon-
2 veyance is recorded.

3 Sec. 40.17.110. CLASSES OF DOCUMENTS ELIGIBLE FOR RECORDING.

4 (a) A signed document listed in (b) of this section or included under
5 (c) of this section that meets the requisites for recording under
6 AS 40.17.030 may be recorded as a class A document. The recorder may
7 not record as a class B document a document that would be a class A
8 document except for a technical defect in the document. A document
9 that meets the requisites for recording under AS 40.17.030 and that is
10 not a conveyance or a defective class A document is a class B document
11 the recording of which is permitted for the safekeeping of a record
12 copy of the document.

13 (b) The recorder may record as a class A document only

14 (1) a conveyance acknowledged or proven under AS 34.15.-
15 150 - 34.15.250 or a certified copy of the conveyance if recording the
16 copy is permitted by AS 40.17.020;

17 (2) an acknowledged or proven power of attorney or other
18 instrument granting or revoking a power to act as agent or attorney
19 for another person;

20 (3) a contract for the sale or purchase of real property,
21 when acknowledged or proven by all parties to the contract;

22 (4) an option for the purchase of real property when it is
23 acknowledged by the person granting the option;

24 (5) a certificate of a public official or an affidavit of a
25 person that may affect the title to or any interest in real property
26 in the state that is described in the certificate or affidavit,
27 stating facts relating to age, sex, birth, death, capacity, relation-
28 ship, family history, heirship, names, identity of parties, marital
29 status, possession or adverse possession, adverse use, residence,

1 service in the armed forces, conflicts and ambiguities in description
2 of land in recorded instruments, and the happening of a condition or
3 event that may terminate an estate or interest; a certificate or
4 affidavit recorded under this section must contain the recording
5 information of a recorded document referred to in it;

6 (6) an instrument by which a real property security agree-
7 ment is subordinated or waived as to priority;

8 (7) a document creating a condition, covenant, restriction,
9 or reservation relating to rights in real property;

10 (8) an assignment of all or part of a security interest in
11 real property;

12 (9) a release of lien or security interest in real prop-
13 erty;

14 (10) an exact or fully conformed copy of a document that is
15 otherwise recordable as a class A document under this section, when
16 the person offering the document attaches to it an affidavit that

17 (A) the exact or fully conformed copy was received by
18 the person in the course of the transaction;

19 (B) the original is not in the person's possession;
20 and

21 (C) the instrument offered for recordation is an exact
22 or fully conformed copy;

23 (11) a conveyance from the United States of an interest in
24 real property in the state;

25 (12) a certified copy of a petition in bankruptcy;

26 (13) a notice of an action previously filed and pending in a
27 court of the state or the United States affecting title to real prop-
28 erty in the state, if the notice contains the case number assigned by
29 the court and a description of the property affected in the recording

1 district;

2 (14) notice of an action for divorce, separate maintenance,
3 annulment, or dissolution of marriage previously filed and pending in
4 a court of any state or the United States affecting title to real
5 property in this state, if the notice contains the case number as-
6 signed by the court;

7 (15) notice of a pending judicial proceeding to compel
8 recording or indexing, if the notice contains the case number assigned
9 by the court;

10 (16) a certified copy of a judgment decree or order of a
11 court of a state in an action for divorce, separate maintenance,
12 annulment, or dissolution of marriage requiring the execution of a
13 conveyance of real property in this state;

14 (17) a list of real property granted by a governmental
15 entity to the state, a municipality, or a corporation;

16 (18) a conveyance executed by an officer of the state by
17 authority of law in the state;

18 (19) a notice limiting future advances under a recorded
19 security agreement;

20 (20) a certified copy of a judgment or decree of a court of
21 the state or of a court of record of the United States or a certified
22 copy of a satisfaction of judgment or decree;

23 (21) a certificate of attachment or an order or proceeding
24 of record discharging attachment;

25 (22) a condemnation order;

26 (23) a declaration of taking;

27 (24) a copy of the record of the meeting of a cemetery
28 association;

29 (25) a cooperative contract;

- 1 (26) a list of persons whose cooperative contracts have been
2 terminated;
- 3 (27) a letter of conservatorship;
- 4 (28) an employee's lien for failure to make payments to a
5 benefit fund;
- 6 (29) an employment security contributions lien;
- 7 (30) a verified workers' compensation lien;
- 8 (31) a mining claim, location, or lease;
- 9 (32) a grubstake contract;
- 10 (33) a mining assessment work affidavit;
- 11 (34) a notice to contribute or forfeit an interest in a
12 mining claim;
- 13 (35) a subdivision plat;
- 14 (36) a signed and sworn-to certificate of limited partner-
15 ship and a signed and sworn-to amendment to a certificate of limited
16 partnership;
- 17 (37) a declaration or amendments to a declaration under
18 AS 34.07 or AS 34.08, an instrument by which property may be removed
19 from the provisions of AS 34.07 or AS 34.08, and an instrument affect-
20 ing property controlled by AS 34.07 or AS 34.08; a declaration under
21 AS 34.08 may not be recorded unless it satisfies the requirements of
22 AS 34.08.090(b);
- 23 (38) a survey map and floor plan for a building under
24 AS 34.07, or a plat or plan for a common interest community under
25 AS 34.08;
- 26 (39) a substitution of trustee under a deed of trust, or
27 other person having a power of sale under a real property security
28 agreement, when executed and acknowledged by all the beneficiaries;
- 29 (40) notice and affidavits required in default and sale

- 1 under a deed of trust;
- 2 (41) a notice of right to mechanics' or materialmen's lien;
- 3 (42) an attested or notarized copy of a notice of nonrespon-
- 4 sibility for construction, alteration, or repair;
- 5 (43) an acknowledgment of right to mechanics' or material-
- 6 men's lien;
- 7 (44) a verified claim of lien under AS 34.35;
- 8 (45) a verified notice of completion of a building or im-
- 9 provement;
- 10 (46) a bond guaranteeing payment of the sum recovered on a
- 11 mechanics' or materialmen's lien;
- 12 (47) a notice extending a mechanics' or materialmen's lien;
- 13 (48) a state tax lien;
- 14 (49) a federal tax lien;
- 15 (50) an instrument transferring a water appropriation or a
- 16 certified copy of it;
- 17 (51) a financing statement covering goods that are or are to
- 18 become fixtures to real property described in the financing statement;
- 19 if the debtor does not have an interest of record in the real prop-
- 20 erty, the financing statement must show the name of the record owner
- 21 of the real property;
- 22 (52) an assignment of rent;
- 23 (53) a memorandum of lease as described in AS 40.17.120(b);
- 24 (54) a state highway right-of-way map;
- 25 (55) an armed forces report of separation;
- 26 (56) a document amending or correcting a recorded document
- 27 listed in this section if the amending or correcting document is exe-
- 28 cuted by the same parties who executed the original document; and
- 29 (57) a master form that can be incorporated by reference in

1 documents later recorded.

2 (c) A document specifically permitted or required to be recorded
3 by another law of the state or made recordable by regulation of the
4 department may be recorded.

5 Sec. 40.17.120. RECORDING MEMORANDUM OF LEASE. (a) Recording a
6 memorandum of lease substantially complying with (b) of this section
7 has the same effect as recording the lease.

8 (b) A memorandum of lease is a document signed by the lessor and
9 lessee and containing a reference to an unrecorded lease, sublease, or
10 agreement to lease or sublease, and supplying at least the following
11 information:

12 (1) the names of the parties;

13 (2) addresses of the parties set out in the lease;

14 (3) the date of the lease;

15 (4) a description of the real property leased or subleased;

16 (5) the commencement and termination dates of the lease if
17 fixed and, if not fixed, the method by which the dates are to be
18 fixed; and

19 (6) a statement of the conditions upon which a party may
20 exercise a right to extend or renew the lease or to exercise a right
21 to purchase or refuse to purchase the real property or part of it.

22 Sec. 40.17.130. ACTIONS AGAINST RECORDER AND STATE. (a) If the
23 recorder fails to record and index a document properly, the recorder
24 may be compelled to record and index the document properly by an
25 action filed in the superior court.

26 (b) The state is liable to a person injured by the failure of
27 the recorder to perform duties under this chapter. Neither the re-
28 corder nor a state employee performing duties of the recorder is
29 individually liable for a good faith error or omission made in the

1 course of employment.

2 Sec. 40.17.900. DEFINITIONS. In this chapter

3 (1) "acceptance" means the determination by the recorder
4 that a document is recordable under this chapter accompanied by mark-
5 ing an identifying code on the document and entering the document in a
6 daily log;

7 (2) "certified copy" means a copy of a document certified
8 as correct by the custodian or other person authorized to make the
9 certification;

10 (3) "conveyance" means a transfer of an interest in real
11 property other than by will or operation of law;

12 (4) "department" means the Department of Natural Resources;

13 (5) "document" means a writing, plat, plan, or map, and
14 includes information in a form, such as electronic, mechanical, or
15 magnetic storage; microfilm; or electronic data transmission signals,
16 that can be converted into legible writing, plat, plan, or map form by
17 a machine or device;

18 (6) "place of recording" means a place designated by the
19 department where documents recordable under this chapter are recorded;

20 (7) "record" means the acceptance of a document by the re-
21 corder that the recorder has determined is recordable under this
22 chapter and that is presented for recording in the place of recording
23 designated for the recording district where affected property is
24 located whether or not the place of recording is in that district, and
25 whether or not under applicable law the recorder is directed to record
26 the document;

27 (8) "recorder" means the commissioner of the department or
28 the commissioner's designee;

29 (9) "recording district" means a part of the state des-

1 ignated a recording district under AS 44.37.025; and

2 (10) "recording information" means information needed to
3 find a document in the public records such as book and page, document
4 number, electronic retrieval code, or other specific information.

5 * Sec. 2. AS 19.10.260 is amended to read:

6 Sec. 19.10.260. REPLACEMENT OF PERMANENT MARKERS AND FILING OF
7 RIGHT-OF-WAY MAP AFTER CONSTRUCTION. The department shall:

8 (1) replace all permanent markers on private or municipal
9 property that were destroyed or lost during highway construction to
10 permit persons to determine accurately new boundary lines resulting
11 from the construction;

12 (2) file and record in the local recording district, after
13 completion of highway construction, an accurate right-of-way map that
14 will contain sufficient engineering and survey information designating
15 where the resulting boundary lines are located on private or municipal
16 property along the highway.

17 * Sec. 3. AS 29.40.090(b) is amended to read:

18 (b) The platting authority shall waive the preparation, sub-
19 mission for approval, filing, and recording of a plat on satisfactory
20 evidence that the subdivision meets the requirements of (a) of this
21 section and each lot created by the subdivision is five acres or
22 larger.

23 * Sec. 4. AS 29.40.110(b) is amended to read:

24 (b) The platting authority shall state in writing its reasons
25 for disapproval of a plat. If the platting authority approves a plat,
26 the plat shall be acknowledged, [AND] filed, and recorded in accor-
27 dance with AS 40.15.010 - 40.15.020.

28 * Sec. 5. AS 29.40.150 is amended to read:

29 Sec. 29.40.150. RECORDING. If the alteration or replat is

1 approved, the revised plat shall be acknowledged, [AND] filed, and
2 recorded in accordance with AS 40.15.010 - 40.15.020.

3 * Sec. 6. AS 29.40.180 is amended to read:

4 Sec. 29.40.180. VIOLATIONS. The [IT IS UNLAWFUL FOR THE] owner
5 of land located in a subdivision may not [TO] transfer, sell, offer to
6 sell, or enter into a contract to sell land in a subdivision before a
7 plat of the subdivision has been prepared, approved, [AND] filed, and
8 recorded in accordance with this chapter. A [IT IS UNLAWFUL FOR A]
9 person may not [TO] file or record a plat or other document depicting
10 subdivided land in a public recorder's office unless the plat or
11 document has been approved by the platting authority. For the viola-
12 tion of a provision of this chapter, a subdivision regulation adopted
13 under this chapter, or a term, condition, or limitation imposed by a
14 platting authority in the exercise of its powers under this chapter, a
15 municipality may by ordinance prescribe a penalty not to exceed a fine
16 of \$1,000 and imprisonment for 90 days.

17 * Sec. 7. AS 30.13.080 is amended to read:

18 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the
19 legislature that a pledge made in respect of bonds is [SHALL BE]
20 perfected and [SHALL BE] valid and binding from the time the pledge is
21 made; that the money or property so pledged and thereafter received by
22 an authority is [SHALL] immediately [BE] subject to the lien of the
23 pledge without physical delivery or further act; and that the lien of
24 the pledge is [SHALL BE] valid and binding against all parties having
25 claims of any kind in tort, contract, or otherwise against the author-
26 ity [IRRESPECTIVE OF] whether or not the parties have notice. Neither
27 the resolution, trust agreement, or any other instrument by which a
28 pledge is created need be recorded or filed under the provisions of
29 the Uniform Commercial Code to be perfected or to be valid, binding,

1 or effective against the parties. This section does not affect title
2 to or conveyances of real property, and does not limit the
3 applicability of AS 40.17.080 [AS 34.15.290].

4 * Sec. 8. AS 34.07.020(14) is amended to read:

5 (14) a reference to the file number and recording informa-
6 tion for [OF] the floor plans of the building affected that [WHICH]
7 are required to be filed and recorded simultaneously with the declara-
8 tion under AS 34.07.030.

9 * Sec. 9. AS 34.07.030 is amended to read:

10 Sec. 34.07.030. FILING AND RECORDING OF SURVEY MAP AND FLOOR
11 PLANS WITH VERIFIED STATEMENT. There shall be filed and recorded
12 simultaneously with the recording of the declaration in the recording
13 district in which the property is located

14 (1) a survey map of the surface of the land submitted under
15 [TO] the provisions of this chapter showing the location of the build-
16 ing on it;

17 (2) a set of the floor plans of the building showing the
18 layout, apartment numbers and dimensions of the apartments in suffi-
19 cient detail to identify and locate each apartment with certainty,
20 stating the name of the building or that it has no name, and bearing
21 the verified statement of a registered architect or registered profes-
22 sional engineer: certifying that it is an accurate copy of portions of
23 the plans of the building as filed with and approved by the govern-
24 mental entity having jurisdiction over the approval or issuance of
25 permits for the construction of the building, or a statement that no
26 approval or permit is required.

27 * Sec. 10. AS 34.07.040(a) is amended to read:

28 (a) If the floor plans do not include a verified statement by a
29 registered architect or registered professional engineer that the

1 plans fully and accurately depict the layout, apartment numbers, and
2 dimensions of the apartments as built, there shall be recorded before
3 the first conveyance of an apartment an amendment to the declaration
4 to which shall be attached a verified statement of a registered archi-
5 tect certifying that the plans previously filed and recorded or being
6 filed and recorded simultaneously with the amendment fully and accu-
7 rately depict the layout, apartment number and dimensions of the
8 apartments as built.

9 * Sec. 11. AS 34.07.050 is amended to read:

10 Sec. 34.07.050. FORM OF FLOOR PLANS. The recording office shall
11 prescribe the style, size, form, and quality of floor plans filed and
12 recorded under AS 34.07.030.

13 * Sec. 12. AS 34.08.090 is amended to read:

14 Sec. 34.08.090. CREATION OF COMMON INTEREST COMMUNITIES. (a) A
15 common interest community may be created under this chapter only by
16 recording a declaration executed in the same manner as a deed and, in
17 a cooperative, by conveying the real estate subject to the declaration
18 to the association. The declaration must be recorded, and a plat or
19 plan that is part of the declaration filed and recorded, in each
20 recording district in which a portion of the common interest community
21 is located and must be indexed in the grantee's index in the name of
22 the common interest community and the association and in the grantor's
23 index in the name of each person executing the declaration.

24 (b) In a condominium, a declaration or an amendment to a decla-
25 ration that adds a unit may not be recorded, and a plat or plan that
26 is part of the declaration may not be filed or recorded, unless the
27 structural components and mechanical systems of each building contain-
28 ing or comprising a unit of the condominium are completed substantial-
29 ly in accordance with the plans, as evidenced by a certificate of

1 completion recorded with the declaration or amendment to the declara-
2 tion and executed by

3 (1) an independent registered engineer, architect, or land
4 surveyor;

5 (2) an appraiser with the designation of Senior Residen-
6 tial Appraiser, Senior Real Property Appraiser, or Senior Real Estate
7 Analyst of the Society of Real Estate Appraisers;

8 (3) a Residential Member, or Member of the [,] Appraisal
9 Institute, of the American Institute of Real Estate Appraisers; or

10 (4) an individual with a designation established by regu-
11 lation of the Alaska Housing Finance Corporation for fee appraisers
12 who certify the completion of construction.

13 * Sec. 13. AS 34.08.140(b) is amended to read:

14 (b) After the declaration for a leasehold condominium or lease-
15 hold planned community is recorded, and a plat or plan that is part of
16 the declaration is filed and recorded, neither the lessor nor the
17 successor in interest of the lessor may terminate the leasehold inter-
18 est of a unit owner who makes timely payment of a unit owner's share
19 of the rent and otherwise complies with the covenants that, if violat-
20 ed, would entitle the lessor to terminate the lease. The leasehold
21 interest of a unit owner in a condominium or planned community is not
22 affected by the failure of any other person to pay rent or fulfill a
23 covenant.

24 * Sec. 14. AS 34.08.140(d) is amended to read:

25 (d) If the expiration or termination of a lease decreases the
26 number of units in a common interest community, the allocated inter-
27 ests must be reallocated under AS 34.08.740(a) as if the units had
28 been taken by eminent domain. The reallocation must be confirmed by
29 an amendment to the declaration prepared, executed, and recorded by

1 the association of unit owners; a plat or plan that accompanies the
2 amendment must be filed and recorded with the amendment.

3 * Sec. 15. AS 34.08.160(b) is amended to read:

4 (b) Except as the declaration otherwise provides, a limited
5 common element may be reallocated by an amendment to the declaration
6 executed by the unit owners between or among whose units the realloca-
7 tion is made. The persons executing the amendment shall provide a
8 copy of the amendment to the association, which shall record the
9 amendment and file and record a plat or plan that accompanies the
10 amendment [IT]. The amendment must be recorded, and an accompanying
11 plat or plan filed and recorded, in the names of the parties and the
12 common interest community.

13 * Sec. 16. AS 34.08.170(b) is amended to read:

14 (b) Each plat must show:

15 (1) the name and a survey or general schematic map of the
16 entire common interest community;

17 (2) the location and dimensions of the real estate not
18 subject to development rights or subject only to the development right
19 to withdraw, and the location and dimensions of each existing improve-
20 ment within the real estate;

21 (3) a legally sufficient description of the real estate
22 subject to development rights, labeled to identify the rights applic-
23 able to each parcel;

24 (4) the extent of each encroachment by or upon a portion
25 of the common interest community;

26 (5) to the extent feasible, a legally sufficient descrip-
27 tion of each easement serving or burdening a portion of the common
28 interest community;

29 (6) the location and dimensions of any vertical unit

1 boundaries not shown or projected on plans filed and recorded under
2 (d) of this section and the identifying number of the unit;

3 (7) the location with reference to an established datum of
4 any horizontal unit boundaries not shown or projected on plans filed
5 and recorded under (d) of this section and the identifying number of
6 the unit;

7 (8) a legally sufficient description of any real estate in
8 which the unit owners will own only an estate for years, labeled as
9 "leasehold real estate";

10 (9) the distance between noncontiguous parcels of real
11 estate comprising the common interest community;

12 (10) the location and dimensions of limited common ele-
13 ments, including porches, decks, balconies and patios, other than
14 parking spaces and the other limited common elements described in
15 AS 34.08.100(2) and (4);

16 (11) in the case of real estate not subject to development
17 rights, all other matters customarily shown on land surveys.

18 * Sec. 17. AS 34.08.170(f) is amended to read:

19 (f) Upon the exercise of a [ANY] development right, the declar-
20 ant shall either file and record new plats and plans necessary to
21 conform to the requirements of (a), (b), and (d) of this section, or
22 file and record new certifications of plats and plans previously filed
23 and recorded if the plats and plans otherwise conform to the require-
24 ments of (a), (b), and (d) of this section.

25 * Sec. 18. AS 34.08.170(h) is amended to read:

26 (h) The state recorder shall prescribe the style, size, form,
27 and quality of plats and plans filed and recorded under this chapter.

28 * Sec. 19. AS 34.08.180(a) is amended to read:

29 (a) To exercise a development right reserved under AS 34.08.-

1 130(a)(8), a declarant shall prepare, execute, and record an amendment
2 to the declaration, file and record a plat or plan that accompanies
3 the amendment, and, in a condominium or planned community, comply with
4 AS 34.08.170. The declarant is the unit owner of the units created
5 under the amendment. The amendment to the declaration must assign an
6 identifying number to each new unit created, and, except in the case
7 of subdivision or conversion of units described in (b) of this sec-
8 tion, reallocate the allocated interests among all units. The amend-
9 ment must describe any common elements and any limited common elements
10 created under the amendment and, in the case of limited common ele-
11 ments, designate the unit to which each is allocated to the extent
12 required by AS 34.08.160.

13 * Sec. 20. AS 34.08.200(b) is amended to read:

14 (b) The association

15 (1) in a condominium or planned community shall prepare,
16 file, and record plats or plans necessary to show the altered bound-
17 aries between adjoining units, and their dimensions and identifying
18 numbers; and

19 (2) in a cooperative shall prepare and record amendments
20 to the declaration, and file and record a plat or plan [INCLUDING ANY
21 PLANS,] necessary to show or describe the altered boundaries between
22 adjoining units [,] and their dimensions and identifying numbers.

23 * Sec. 21. AS 34.08.210(a) is amended to read:

24 (a) If the declaration expressly permits it, a unit may be
25 subdivided into two or more units. Upon application of a unit owner
26 to subdivide a unit, the association shall, subject to the provisions
27 of the declaration and other provisions of law, prepare, execute, and
28 record an amendment to the declaration subdividing the unit, including
29 in a condominium or planned community filing and recording a plat or

1 plan that accompanies the amendment [THE PLATS AND PLANS, SUBDIVIDING
2 THE UNIT].

3 * Sec. 22. AS 34.08.250(c) is amended to read:

4 (c) Each amendment to the declaration must be recorded, and a
5 plat or plan that accompanies the amendment filed and recorded, in
6 each recording district in which a portion of the common interest
7 community is located and the amendment is effective only upon record-
8 ing. An amendment, except an amendment under AS 34.08.200(a), must be
9 indexed in the name of the common interest community and the associa-
10 tion and in the name of the parties executing the amendment.

11 * Sec. 23. AS 34.08.320(a) is amended to read:

12 (a) Except as provided in (b) of this section and subject to the
13 provisions of the declaration, the association may:

14 (1) adopt and amend bylaws and rules and regulations;

15 (2) adopt and amend budgets for revenues, expenditures,
16 and reserves and collect assessments for common expenses from unit
17 owners;

18 (3) hire and discharge managing agents and other employ-
19 ees, agents, and independent contractors;

20 (4) institute, defend, or intervene in litigation or
21 administrative proceedings or seek injunctive relief for violations of
22 its declaration, bylaws or rules in its own name on behalf of itself
23 or two or more unit owners on matters affecting the common interest
24 community;

25 (5) make contracts and incur liabilities;

26 (6) regulate the use, maintenance, repair, replacement,
27 and modification of common elements;

28 (7) cause additional improvements to be made as a part of
29 the common elements;

1 (8) acquire, hold, encumber, and convey in its own name
2 any right, title, or interest to real estate or personal property,
3 except that

4 (A) common elements in a condominium or planned
5 community may be conveyed or subjected to a security interest
6 only under AS 34.08.430; and

7 (B) part of a cooperative may be conveyed or all or
8 part of a cooperative may be subjected to a security interest
9 only under AS 34.08.430;

10 (9) grant easements, leases, licenses, and concessions
11 through or over the common elements;

12 (10) impose and receive a payment, fee, or charge for the
13 use, rental, or operation of the common elements, other than limited
14 common elements described in AS 34.08.100(2) and (4), and for services
15 provided to unit owners;

16 (11) impose a reasonable charge for late payment of assess-
17 ments and, after notice and an opportunity to be heard, levy a reason-
18 able fine for a violation of the declaration, bylaws, rules, and
19 regulations of the association;

20 (12) impose a reasonable charge for the preparation and
21 recording of an amendment to the declaration, the filing and recording
22 of a plat or plan that accompanies an amendment, resale certificate
23 required by AS 34.08.590, or a statement of unpaid assessments;

24 (13) provide for the indemnification of its officers and
25 executive board and maintain directors' and officers' liability insur-
26 ance;

27 (14) assign its right to future income, including the right
28 to receive common expense assessments, but only to the extent the
29 declaration expressly permits the assignment;

1 (15) exercise any other powers conferred by the declaration
2 or bylaws;

3 (16) exercise any other power that may be exercised in the
4 state by a legal entity of the same type as the association; and

5 (17) exercise any other power necessary and proper for the
6 governance and operation of the association.

7 * Sec. 24. AS 34.08.440(h) is amended to read:

8 (h) A portion of the common interest community for which insur-
9 ance is required under this section that is damaged or destroyed must
10 be repaired or replaced promptly by the association unless (1) the
11 common interest community is terminated and AS 34.08.260 applies, (2)
12 repairs or replacement would be illegal under a state statute or
13 municipal ordinance governing health or safety, or (3) 80 percent of
14 the unit owners, including each owner of a unit or assigned limited
15 common element that will not be rebuilt, vote not to rebuild. The
16 cost of repair or replacement in excess of insurance proceeds and
17 reserves is a common expense. If the entire common interest community
18 is not repaired or replaced, (1) the insurance proceeds attributable
19 to the damaged common elements must be used to restore the damaged
20 area to a condition compatible with the remainder of the common inter-
21 est community, and (2) except to the extent that other persons will be
22 distributees, (A) the insurance proceeds attributable to a unit and
23 limited common elements that is not rebuilt must be distributed to the
24 owner of the unit and the owner of the unit to which the limited
25 common elements were allocated, or to lien holders, as their interests
26 may appear, and (B) the remainder of the proceeds must be distributed
27 to each unit owner or lien holder, as their interests may appear, as
28 follows: (i) in a condominium, in proportion to the common element
29 interest of all the units and (ii) in a cooperative or planned commun-

1 ity, in proportion to the common expense liabilities of all the units.
2 If the unit owners vote not to rebuild a unit, the allocated interests
3 of the unit are reallocated upon the vote as if the unit had been
4 condemned under AS 34.08.740(a), and the association promptly shall
5 prepare, ~~execute~~ [EXECUTED], and record an amendment to the declara-
6 tion reflecting the reallocations, and file and record a plat or plan
7 that accompanies the amendment.

8 * Sec. 25. AS 34.08.700 is amended to read:

9 Sec. 34.08.700. SUBSTANTIAL COMPLETION OF UNITS. In the sale of
10 a unit for which delivery of a public offering statement is required,
11 a contract of sale may be executed, but an interest in the unit may
12 not be conveyed until the declaration is recorded, a plat or plan that
13 accompanies the declaration is filed and recorded, and the unit is
14 substantially completed as evidenced by issuance of a certificate of
15 occupancy authorized by law or by a recorded certificate of substan-
16 tial completion executed by

17 (1) an independent registered engineer, architect, or land
18 surveyor;

19 (2) an appraiser with the designation of senior residen-
20 tial appraiser, senior real property appraiser, or senior real estate
21 analyst of the Society of Real Estate Appraisers;

22 (3) a residential member, or member of the [,] appraisal
23 institute, of the American Institute of Real Estate Appraisers; or

24 (4) an individual with a designation established by regu-
25 lation of the Alaska Housing Finance Corporation for fee appraisers
26 who certify the completion of construction.

27 * Sec. 26. AS 34.08.740(a) is amended to read:

28 (a) If a unit is acquired by eminent domain or part of a unit is
29 acquired by eminent domain leaving the unit owner with a remnant that

1 may not practically or lawfully be used for any purpose permitted by
2 the declaration, the award must include compensation to the unit owner
3 for that unit and its allocated interests, whether or not any common
4 elements are acquired. Upon acquisition, unless the decree otherwise
5 provides, the allocated interests of the unit are automatically real-
6 located to the remaining units in proportion to the respective allo-
7 cated interests of those units before the taking, and the association
8 shall promptly prepare, execute, and record an amendment to the decla-
9 ration reflecting the reallocations, and file and record a plat or
10 plan that accompanies the amendment. A remnant of a unit remaining
11 after part of a unit is taken under this subsection is a common ele-
12 ment from that time.

13 * Sec. 27. AS 34.08.990(30) is amended to read:

14 (30) "special declarant rights" means the right reserved
15 for the benefit of a declarant to

16 (A) complete improvements indicated on plats and
17 plans filed and recorded with the declaration or, in a coopera-
18 tive, to complete improvements described in the public offering
19 statement under [PURSUANT TO] AS 34.08.530(a)(2);

20 (B) exercise a development right;

21 (C) maintain sales offices, management offices, signs
22 advertising the common interest community, and models;

23 (D) use easements through the common elements for the
24 purpose of making improvements within the common interest commun-
25 ity or within real estate that may be added to the common inter-
26 est community;

27 (E) make the common interest community subject to a
28 master association;

29 (F) merge or consolidate a common interest community

1 with another common interest community of the same form of owner-
2 ship; or

3 (G) appoint or remove an officer of the association
4 or a master association or an executive board member during a
5 period of declarant control;

6 * Sec. 28. AS 34.15 is amended by adding a new section to read:

7 Sec. 34.15.015. USE OF RECORDED MASTER FORM. If reference is
8 made in a document to a recorded master form, a copy of the form, or
9 so much of it as is incorporated by reference, must be provided to
10 each party to the transaction by the party that furnished the docu-
11 ment.

12 * Sec. 29. AS 38.04.045(b) is amended to read:

13 (b) Before the conveyance of surface rights to state land, an
14 official cadastral survey shall be accomplished, unless a comparable,
15 acceptable survey exists that has been conducted by the federal Bureau
16 of Land Management. The rectangular survey section corner positions
17 shall be monumented and shown on a cadastral survey plat approved by
18 the state. However, for those areas where the state may wish to
19 convey surface estate outside of an official cadastral survey grid,
20 the director may waive monumentation of all individual section corner
21 positions and substitute an official control survey with control
22 points being monumented and shown on control survey plats approved by
23 the state. No portion of land to be conveyed may be located more than
24 two miles from such a survey control monument except that the commis-
25 sioner may waive this requirement on a determination that topographic
26 features, diffuse settlement, or the public interest do not justify
27 the requirement. The lots and tracts in state subdivisions shall be
28 monumented and the cadastral survey and plats for the subdivision
29 shall be approved by the state. Where land is located within a muni-

1 cipality with planning, platting, and zoning powers, plats for state
2 subdivisions shall comply with local ordinances and regulations in the
3 same manner and to the same extent as plats for subdivisions by other
4 landowners. State subdivisions shall be filed and recorded in the
5 district recorder's office. The requirements of this section do not
6 apply to land made available through a cabin permit system, material
7 sales, or short-term leases; however, for short-term leases the lessee
8 must comply with local subdivision ordinances unless waived by the
9 municipality under procedures specified by ordinance.

10 * Sec. 30. AS 40.15.010 is amended to read:

11 Sec. 40.15.010. APPROVAL, FILING, AND RECORDING OF SUBDIVISIONS.
12 Before the lots or tracts of any subdivision or dedication may be sold
13 or offered for sale, the subdivision or dedication shall be submitted
14 for approval to the authority having jurisdiction, as prescribed in
15 this chapter. The regular approval of the authority shall be shown on
16 it or attached to it and the subdivision or dedication shall be filed
17 and recorded [FOR RECORD] in the office of the recorder. The recorder
18 may [SHALL] not accept a subdivision or dedication for filing and
19 recording unless it shows this approval. If no platting authority
20 exists as provided in AS 40.15.070 - 40.15.130, lands may be sold
21 without approval.

22 * Sec. 31. AS 40.15.020 is amended to read:

23 Sec. 40.15.020. PLATS TO BE ACKNOWLEDGED AND CONTAIN CERTIFICATE
24 THAT TAXES AND ASSESSMENTS ARE PAID. Every plat shall be acknowledged
25 before an officer authorized to take acknowledgment of deeds. A cer-
26 tificate of acknowledgment shall be endorsed on or annexed to the plat
27 and recorded with it. A person filing and recording a plat, map, sub-
28 division, or replat of property, or vacating the whole or any portion
29 of an existing plat, map, subdivision, or replat shall [, AT THE TIME

1 OF FILING IT FOR RECORD OR FILING THE PETITION TO VACATE,] file and
2 record with it a certificate from the tax-collecting official or
3 officials of the area in which the land is located that all taxes
4 levied against the property at that date are paid.

5 * Sec. 32. AS 40.15.030 is amended to read:

6 Sec. 40.15.030. DEDICATION OF STREETS, ALLEYS AND THOROUGHFARES.
7 When an area is subdivided and a plat of the subdivision is approved,
8 filed, and recorded, all streets, alleys, thoroughfares, parks and
9 other public areas shown on the plat are considered to be [DEEMED TO
10 HAVE BEEN] dedicated to public use.

11 * Sec. 33. AS 40.15.040 is amended to read:

12 Sec. 40.15.040. CERTIFIED COPY OF PLAT AS [IS] EVIDENCE. A copy
13 of a plat certified by the recorder of the recording district in which
14 it is filed or recorded as a true and complete copy of the original
15 filed or recorded in the recording office for the district [ON FILE IN
16 HIS OFFICE] is admissible in evidence in all courts in the state with
17 the same effect as the original.

18 * Sec. 34. AS 40.15.050 is amended to read:

19 Sec. 40.15.050. [RECORDED] PLATS LEGALIZED. All plats filed or
20 recorded with the recorder [RECORDED] before March 30, 1953, whether
21 executed and acknowledged in accordance with this chapter or not, are
22 validated and all streets, alleys or public thoroughfares shown on
23 these plats are considered to be [AS HAVING BEEN] dedicated to public
24 use. [THIS SECTION DOES NOT PROHIBIT THE ABANDONMENT OF A PLAT RE-
25 CORDED BEFORE MARCH 30, 1953, IF A SUBSEQUENT PLAT IS FILED INDICATING
26 ABANDONMENT.] The last plat of the area of record on March 30, 1953,
27 is the official plat of the area as of that date, and the streets,
28 alleys, or thoroughfares shown on it are considered [DEEMED] to be
29 [THE STREETS, ALLEYS OR THOROUGHFARES] dedicated to public use. The

1 streets, alleys or thoroughfares shown on an earlier plat of the same
2 area or any part of it which is in conflict with those shown on the
3 official plat are considered to be [IS DEEMED TO HAVE BEEN] abandoned
4 and vacated.

5 * Sec. 35. AS 40.15.060 is amended to read:

6 Sec. 40.15.060. MISSING PLATS. When [WHERE] a filed or recorded
7 plat is missing and no present record is available except by reference
8 to the missing plat, a counterpart copy, approved by the platting
9 authority, may be filed and recorded as of the original date of the
10 missing plat and after filing and recording [RECORDATION] has the same
11 legal effect and notice as the original missing plat.

12 * Sec. 36. AS 40.15.070 is amended to read:

13 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be
14 subdivided or dedicated is situated within a first or second class
15 borough, the proposed subdivision or dedication shall be submitted to
16 the borough planning commission for approval. If the land is situated
17 within a city in the unorganized borough or the third class borough,
18 the proposed subdivision or dedication shall be submitted to the city
19 planning commission for approval. The borough planning commission is
20 the platting authority for the first or second class borough, the city
21 planning commission is the platting authority for the city, and the
22 Department of Natural Resources [DIVISION OF LANDS] is the platting
23 authority in the remaining areas of the state and third class borough
24 for the change or vacation of existing plats or a portion of such
25 plats, as provided in AS 40.15.075. If the borough or the city does
26 not have a planning commission, the borough assembly or the city
27 governing body, respectively, is the platting authority and the pro-
28 posed subdivision or dedication shall be submitted to it. A [NO]
29 subdivision may not be filed and recorded [FOR RECORD] until it is

1 approved by the platting authority.

2 * Sec. 37. AS 40.15.075 is amended to read:

3 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD
4 CLASS BOROUGH. The Department of Natural Resources [DIVISION OF
5 LANDS] is the platting authority in the area outside organized bor-
6 oughs and outside cities in the unorganized borough and in the third
7 class borough for only the purposes of hearing and acting on petitions
8 for the change or vacation of plats and shall execute this function
9 substantially in conformity with the provisions of AS 29.40.130 -
10 29.40.160. Costs of publication and mailing authorized in AS 29.40.-
11 130 shall be paid to the Department of Natural Resources [DIVISION] by
12 the petitioner. The Department of Natural Resources shall adopt
13 reasonable regulations governing the exercise of the authority confer-
14 red by this section [UPON THE DIVISION OF LANDS].

15 * Sec. 38. AS 40 is amended by adding a new chapter to read:

16 CHAPTER 19. RECORDING FEDERAL LIENS.

17 Sec. 40.19.010. APPLICABILITY. The provisions of this chapter
18 apply to federal tax liens and to other federal liens notice of which
19 under an Act of Congress or a regulation adopted under the authority
20 of an Act of Congress is required or permitted to be filed or recorded
21 in the same manner as a notice of federal tax lien.

22 Sec. 40.19.020. PLACE OF RECORDING. (a) Notices of lien,
23 certificates, and other notices affecting a federal tax lien or other
24 federal lien shall be recorded under this chapter.

25 (b) Notices of lien upon real property for obligations payable
26 to the United States and certificates and notices affecting the lien
27 shall be recorded in the records of the recording district in which
28 the real property subject to the lien is situated.

29 (c) Notices of federal lien upon personal property, whether tan-

1 gible or intangible, for obligations payable to the United States and
2 certificates and notices affecting the lien shall be recorded in the
3 records of the recording district where the person against whose
4 interest the lien applies resides at the time of recording of the
5 notice of lien.

6 (d) For purposes of (c) of this section the residence of a cor-
7 poration or partnership is the place in which the principal executive
8 office of the business is located.

9 Sec. 40.19.030. EXECUTION OF NOTICES AND CERTIFICATES. Certi-
10 fication of notices of lien, certificates, or other notices affecting
11 federal liens by the United States Secretary of the Treasury or by the
12 designee of the United States Secretary of the Treasury, or by an
13 official or entity of the United States responsible for filing, re-
14 cording, or certifying, of notice of any other lien, entitles the
15 notices or certificates to be recorded and further attestation, certi-
16 fication, or acknowledgement is not necessary.

17 Sec. 40.19.040. DUTIES OF RECORDER. (a) If a notice of federal
18 lien, a rerecording of notice of federal lien, or a notice of revoca-
19 tion of a certificate described in (b) of this section is presented to
20 the recorder under AS 40.17, the recorder shall endorse on the notice
21 an identification and the date and time of recording and enter it
22 first in a daily log of class A documents and then in an alphabetical
23 index showing the name of the person named in the notice, the date and
24 time of recording, the title of the official or entity certifying the
25 lien, and the total amount appearing on the notice of lien.

26 (b) If a rerecorded notice of federal lien referred to in (a) of
27 this section or a certificate of release, nonattachment, discharge, or
28 subordination of lien or a revocation of any of these certificates is
29 presented to the recorder for recording, the recorder shall record it

1 in the way a document listed in (a) of this section would be recorded
2 and shall enter the rerecorded notice or the certificate or revocation
3 with the date of recording in the alphabetical index together with a
4 reference to the recording information for the original notice or
5 certificate to which it relates.

6 (c) A lien on file with records of a recording district on the
7 effective date of this section is considered to have been recorded at
8 the date and time it was filed.

9 (d) In this section "rerecording" includes recording of a lien
10 previously filed.

11 Sec. 40.19.050. UNIFORMITY OF APPLICATION AND CONSTRUCTION. To
12 the extent the provisions of this chapter follow the Uniform Federal
13 Lien Registration Act (1978) they shall be applied and construed to
14 effectuate their general purpose to make uniform the law with respect
15 to the subject of this chapter among the states enacting it.

16 * Sec. 39. AS 43.10.042 is repealed and reenacted to read:

17 Sec. 43.10.042. RECORDING LIEN AND CERTIFICATE OF DISCHARGE.

18 (a) A lien imposed under this title is not valid as against a mort-
19 gagee or other lien holder, pledgee, purchaser, or judgment creditor
20 until notice of it is recorded as a class A document in the records of
21 the recording district where the property subject to the lien is
22 situated. However, regardless of the date the liens are recorded, a
23 lien arising out of a tax due under AS 43.56 and AS 43.75, including
24 the penalties and interest on the tax, is a lien prior, paramount, and
25 superior to all other liens, mortgages, hypothecations, conveyances,
26 and assignments, upon all the real and personal property of the person
27 liable for the tax, and upon all the real and personal property used
28 with the permission of the owner to carry on the business that is
29 subject to the tax.

1 (b) AS 40.19.040 applies to a notice of state tax lien and
2 documents relating to a state tax lien as well as to a notice of
3 federal lien and documents relating to a federal lien.

4 * Sec. 40. AS 44.37.025 is amended to read:

5 Sec. 44.37.025. RECORDING. (a) The Department of Natural Re-
6 sources shall adopt regulations [,] establishing, modifying, or dis-
7 continuing recording districts or precincts and prescribing the re-
8 cords to be maintained and the instruments to be recorded, consistent
9 with AS 40.17.

10 (b) The department shall [ENGAGE AND COMPENSATE RECORDERS AND
11 DEPUTY RECORDERS,] prescribe and account for recording fees [,] and do
12 all other things necessary to maintain the recording system estab-
13 lished under the laws of this state. The commissioner of adminis-
14 tration shall separately account for fees collected under this section
15 that the Department of Natural Resources deposits in the general fund.
16 The annual estimated balance in the account may be used by the legis-
17 lature to make appropriations to the department to carry out the
18 purposes of this section.

19 (c) The department, with the concurrence of the administrative
20 director of courts, may appoint judicial employees to perform services
21 in connection with recording, providing access to, and copying [RE-
22 CORD] documents in locations where the department has no employees
23 available to perform those functions [SERVE AS RECORDERS].

24 (d) The department shall file with the commissioner of commerce
25 and economic development a copy of each conveyance recorded that
26 contains a statement that property is conveyed to a nonresident alien
27 or for the benefit of a nonresident alien.

28 * Sec. 41. In the following statutes the revisor of statutes is di-
29 rected to delete the requirement or permission that a document be filed or

1 filed for record and to substitute a corresponding requirement or permis-
2 sion that the document be recorded: AS 09.40.050; AS 09.55.370;
3 AS 10.15.230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.-
4 047; AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050,
5 27.10.060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.-
6 10.230; AS 32.10.010, 32.10.240; AS 34.07.070; AS 34.20.090; AS 34.35.065,
7 34.35.160, 34.35.185, 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.-
8 405, 34.35.440; AS 38.05.195, 38.05.200, 38.05.205, 38.05.210, 38.05.220,
9 38.05.230, 38.05.245, 38.05.250, 38.05.265, 38.05.275; AS 38.20.100;
10 AS 45.09.402(f); and AS 46.15.160.

11 * Sec. 42. AS 34.15.260, 34.15.270, 34.15.280, 34.15.290, 34.15.300,
12 34.15.310, 34.15.320, 34.15.330, 34.15.340, 34.15.345, 34.15.350; AS 34.-
13 20.020; AS 43.10.090, 43.10.100, 43.10.110, 43.10.120, 43.10.130, 43.10.-
14 140, and 43.10.150 are repealed.

15 * Sec. 43. This Act takes effect January 1, 1989.

HOUSE BILL NO. 320
Introduced: 5/15/87
Referred: Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (For the Code
Revision Commission)

and

SENATE BILL NO. 304
Introduced: 5/15/87
Referred: Resources and Finance

Identical text in both bills. Please file both versions. . . .
Due to the length, only this version will be printed.

Introduced: 5/15/87
Referred: Resources & Finance
HOUSE BILL NO. 320, identical
Referred: Judiciary

5-1077A

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (For the Code
Revision Commission)

1 IN THE SENATE

2

SENATE BILL NO. 304

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to filing and recording, recordable
7 documents, conveyances, plats, and platting author-
8 ities; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 40 is amended by adding a new chapter to read:

11 CHAPTER 17. RECORDING IN PUBLIC RECORDS.

12 Sec. 40.17.010. PLACE OF RECORDING AND ACCESS TO RECORDS. (a)

13 The Department of Natural Resources shall provide at each public
14 office designated by the department

15 (1) the documents and indices or alternative document re-
16 trieval system of the recording district or districts served by that
17 public office;

18 (2) a machine, device or system with which to retrieve
19 stored documents;

20 (3) a means for making copies of recorded documents and a
21 person authorized by the recorder to certify the copies;

22 (4) to the extent money is appropriated for the purpose, a
23 machine, device, or system capable of rapidly transmitting a document
24 eligible for recording to a recorder at one place of recording in the
25 state, and a person to operate the machine, device, or system; if the
26 department determines that it is not feasible to provide a machine,
27 device, or system in an office serving a recording district, it shall
28 provide for transmitting documents from the office by other expedi-
29 tious means.

1 (b) The department shall provide the staff and equipment to re-
2 ceive and record documents and to store them permanently.

3 (c) The recorder shall record class B documents at a single
4 place in the state designated by the department. Other recording
5 offices may not accept a class B document for recording.

6 (d) When rapid recording and retrieval and secure storage of
7 class A documents can be provided for all recording districts with a
8 single place of recording in the state, the recorder shall record the
9 documents at a single place in the state designated by the department.

10 (e) The recorder shall provide reasonable public access during
11 business hours to recorded documents, indices, and facilities provided
12 for in this section.

13 Sec. 40.17.020. RECORDING CONVEYANCES. (a) A conveyance that
14 is eligible for recording as a class A document under AS 40.17.030 and
15 40.17.110 may be recorded only as a class A document, and only in the
16 records of the recording district in which land affected by the con-
17 veyance is located. If land affected by the conveyance is located in
18 more than one recording district, an original conveyance may be re-
19 corded in the records of any district in which part of the land is
20 located and an original or a certified copy may be recorded in the
21 records of each other district in which part of the land is located.
22 A certified copy so recorded has the same effect from the time it is
23 recorded as though it were the original conveyance.

24 (b) A certified copy of a conveyance that is eligible for re-
25 cording as a class A document under AS 40.17.030 and 40.17.110 and
26 that has been recorded or filed in a public recorder's office in
27 another state or in the United States Bureau of Land Management may be
28 recorded only as a class A document, and only in the records of a
29 recording district where land affected by the conveyance is located.

1 When so recorded, it has the same effect from the time it is recorded
2 as though it were the original conveyance.

3 Sec. 40.17.030. FORMAL REQUISITES FOR RECORDING. (a) To be
4 eligible for recording, a document must be

5 (1) legible or capable of being converted into legible form
6 by a machine or device used in the recording office;

7 (2) capable of being copied by the method used in the
8 recording office;

9 (3) accompanied by the proper fee for recording and include
10 or be accompanied by information, stamps, certificates, taxes, or fees
11 that under other laws are necessary to qualify the document for re-
12 cording;

13 (4) accompanied by or include the information needed to
14 index a class A document under regulations of the department, or the
15 names needed to index a class B document under AS 40.17.040(c);

16 (5) accompanied by or include the name and address of the
17 person to whom the document is to be returned after recording; and

18 (6) accompanied by or include the mailing addresses of all
19 persons named in the document who grant or acquire an interest under
20 the document if it is a conveyance; this paragraph does not apply to a
21 release of a security interest.

22 (b) A class B document may not be recorded unless, in addition
23 to the name required in (a)(5) of this section, it is accompanied by
24 or includes the name of the person in whose behalf the document is
25 recorded.

26 (c) A signature, acknowledgment, seal, or witness is required
27 for a document to be eligible for recording only when required for the
28 specific document by this chapter or by other law.

29 (d) A name, address, or other information required by this

1 section shall be contained in the document that is to be recorded, or
2 shall be recorded with the document.

3 (e) The recorder shall prescribe the style, size, form, and
4 quality that a plat, plan, or survey map must satisfy for filing and
5 recording under this chapter.

6 Sec. 40.17.040. INDEXING. (a) A document shall be indexed
7 based on its classification under AS 40.17.110.

8 (b) The recorder shall maintain an index system for class A
9 recorded documents in the manner prescribed by regulations adopted by
10 the department. The system shall be designed so the public may find
11 class A documents by names of grantors and grantees, and the system
12 may include other means for locating the documents. The recorder
13 shall maintain the index to class B documents at the one place of
14 recording for class B documents.

15 (c) For class B documents, the recorder may not make index en-
16 tries other than the name or names chosen for indexing by the person
17 who presents the document for recording, the date of recording, and
18 the serial number or identifying code of the document.

19 (d) The declaration for a common interest community under
20 AS 34.08 shall be indexed in the grantee's index in the name of the
21 common interest community and the association and in the grantor's
22 index in the name of each person executing the declaration.

23 Sec. 40.17.050. INCORPORATION OF MASTER FORM. A recorded master
24 form, or a numbered paragraph of it, may be incorporated by reference
25 in a recorded document by referring to the form by its recording
26 information and the number of the paragraph to be incorporated. The
27 reference has the same effect as if the master form or the numbered
28 paragraph were reproduced in full in the record at the place where the
29 reference to the form or paragraph is made.

1 Sec. 40.17.060. DOCUMENTS EXECUTED UNDER FORMER LAW. If a docu-
2 ment included under AS 40.17.110(b) or (c) was executed in accordance
3 with the law in effect at the time the document was executed, the
4 document remains recordable as a class A document regardless of later
5 amendments to the law changing the manner in which that document is to
6 be executed.

7 Sec. 40.17.070. DUTIES OF RECORDER. (a) The recorder shall
8 promptly record all documents presented which are recordable under
9 AS 40.17.020, 40.17.030, and 40.17.110.

10 (b) The recorder shall maintain separate daily logs and indices
11 for class A and class B documents with a separate system of serial
12 numbers for each class. The daily log and index for class B documents
13 shall be maintained in the central recording office.

14 (c) As a document is recorded, the recorder shall

15 (1) indicate on or attach to each class A document the
16 date, hour, and minute of recording, enter that information and a
17 consecutive serial number in a daily log of class A documents without
18 delay in the order in which the documents are received, and note the
19 serial number on the document;

20 (2) indicate on or attach to each class B document the date
21 of recording, enter the date of recording and a consecutive serial
22 number in a daily log of class B documents, and note the serial number
23 on the document.

24 (d) The recorder shall mark each document to show in which class
25 it is recorded. If a document presented for recording is reviewed and
26 rejected for recording as a class A document, the recorder shall
27 indicate on or attach to the document the date, hour, and minute of
28 rejection and a citation of the statute requiring rejection. If the
29 document is later determined to be recordable as a class A document in

1 the form in which it was earlier presented to the recorder, later
2 recording does not relate back to the time and date of rejection.
3 Recording is effective when the document is accepted for recording,
4 regardless of the cause of the rejection.

5 (e) The recorder shall promptly copy recorded documents and
6 place them in permanent records and shall note the recording informa-
7 tion at the entry of each document in the daily log.

8 (f) Promptly after recording a document, the recorder shall make
9 the index entries required in this chapter and in the regulations of
10 the department.

11 (g) After recording, the recorder shall return the document to
12 the person who presented it or a person designated by the person who
13 presented it.

14 (h) The recorder shall certify copies and provide a certified
15 copy of a recorded document to a person who tenders the proper fee.

16 (i) The recorder is not required to record part of a document if
17 the part is identified and preceded by the words "From Previously
18 Recorded Master Form--Do Not Record" and the recorded part contains a
19 reference to the master form's recording information.

20 Sec. 40.17.080. EFFECT OF RECORDING ON TITLE AND RIGHTS: CON-
21 STRUCTIVE NOTICE. (a) Subject to (c) and (d) of this section, from
22 the time a class A document is recorded in the records of the record-
23 ing district in which land affected by it is located, the recorded
24 document is constructive notice of the contents of the document to
25 subsequent purchasers and holders of a security interest in the same
26 property or a part of the property. Recording of a class B document
27 does not provide constructive notice for any purpose.

28 (b) A conveyance of real property in the state, other than a
29 lease for a term of less than one year, is void as against a

1 subsequent innocent purchaser in good faith for valuable consideration
2 of the property or a part of the property whose conveyance is first
3 recorded as a class A document. An unrecorded conveyance is valid as
4 between the parties to it and as against one who has actual notice of
5 it. In this subsection, "purchaser" includes a holder of a consensual
6 interest in real property that secures payment or performance of an
7 obligation.

8 (c) The recording of an assignment of a security interest is not
9 in itself notice to the debtor. The debtor may pay the assignor
10 unless the debtor has actual notice of the assignment.

11 (d) A recorded option or agreement to enter into a contract in
12 the future ceases to be constructive notice for any purpose

13 (1) when six months have elapsed after the date of record-
14 ing of the option or agreement, if the recorded option or agreement
15 contains no expiration date;

16 (2) when 30 days have elapsed after the expiration date of
17 the option or agreement, if the recorded option or agreement contains
18 an expiration date.

19 Sec. 40.17.090. CONVEYANCES AND RECORDED DOCUMENTS AS EVIDENCE.

20 (a) A conveyance that is acknowledged, proven, or certified under
21 AS 34.15.150 - 34.15.250 is admissible as evidence of the conveyance
22 without further proof.

23 (b) An acknowledged and recorded signed document relating to
24 title to real property creates presumptions with respect to title that

25 (1) the document is genuine and was executed as the volun-
26 tary act of the person purporting to execute it;

27 (2) the person executing the document and the person on
28 whose behalf it is executed are the persons they are purported to be
29 and the person executing it was neither incompetent nor a minor at any

1 relevant time;

2 (3) delivery of the document occurred notwithstanding a
3 lapse of time between dates on the document and the date of recording;

4 (4) any necessary consideration was given;

5 (5) the grantee, transferee, or beneficiary of an interest
6 created or claimed by the document acted in good faith at all relevant
7 times up to and including the time of the recording;

8 (6) a person purporting to act as an agent, attorney in
9 fact under a recorded power of attorney or authority, officer of an
10 organization, or in a fiduciary or official capacity, held the posi-
11 tion the person purported to hold, acted within the scope of the
12 person's authority, and in the case of an organization, the authoriza-
13 tion satisfied all requirements of law; and in the case of an agent,
14 acted for a principal who was neither incompetent nor a minor at any
15 relevant time and who had not revoked the agency;

16 (7) if the document purports to be executed in accordance
17 with or to be a final determination in a judicial or administrative
18 proceeding, or to be executed under a power of eminent domain, the
19 court, official body, or condemnor acted within its jurisdiction and
20 all steps required for the execution of the title document were taken;

21 (8) the recitals and other statements of fact in a convey-
22 ance are true if the matter stated is relevant to the purpose of the
23 document;

24 (9) the persons named in, signing, or acknowledging the
25 document and persons named in, signing, or acknowledging another
26 related document in a chain of title are identical, if the persons
27 appear in those documents under identical names, or under variants of
28 the names, including inclusion, exclusion, or use of

29 (A) commonly recognized abbreviations, contractions,

1 initials, or colloquial or other equivalents;
2 (B) first or middle names or initials;
3 (C) simple transpositions that produce substantially
4 similar pronunciations;
5 (D) articles or prepositions in names or titles;
6 (E) descriptions of entities as corporations, com-
7 panies, or abbreviations or contractions of either; or
8 (F) name suffixes, such as "Senior" or "Junior",
9 unless other information appears of record indicating that they
10 are different persons; and
11 (10) all other requirements for the execution, delivery and
12 validity of the document have been satisfied.

13 (c) The presumptions stated in (b) of this section arise even if
14 the document purports only to release a claim or convey an interest of
15 the person executing it or of the person on whose behalf it is exe-
16 cuted.

17 (d) Facts stated in a recorded certificate of a public official
18 in affidavit form or under the seal of the official's office and
19 derived from information or documents obtained or kept by the official
20 as part of official duties are presumed to be true.

21 (e) If presumptions created by this section are inconsistent,
22 the presumption applies that is founded upon weightier consideration
23 of policy and logic. If these considerations are of equal weight,
24 neither presumption applies.

25 Sec. 40.17.100. RECORDING A RECONVEYANCE. When the parties to a
26 recorded conveyance absolute in its terms intend it to serve only as
27 security for repayment of a debt, the conveyance is absolute as to all
28 persons who rely upon it in good faith and for value before a recon-
29 veyance is recorded.

1 Sec. 40.17.110. CLASSES OF DOCUMENTS ELIGIBLE FOR RECORDING.

2 (a) A signed document listed in (b) of this section or included under
3 (c) of this section that meets the requisites for recording under
4 AS 40.17.030 may be recorded as a class A document. The recorder may
5 not record as a class B document a document that would be a class A
6 document except for a technical defect in the document. A document
7 that meets the requisites for recording under AS 40.17.030 and that is
8 not a conveyance or a defective class A document is a class B document
9 the recording of which is permitted for the safekeeping of a record
10 copy of the document.

11 (b) The recorder may record as a class A document only

12 (1) a conveyance acknowledged or proven under AS 34.15.-
13 150 - 34.15.250 or a certified copy of the conveyance if recording the
14 copy is permitted by AS 40.17.020;

15 (2) an acknowledged or proven power of attorney or other
16 instrument granting or revoking a power to act as agent or attorney
17 for another person;

18 (3) a contract for the sale or purchase of real property,
19 when acknowledged or proven by all parties to the contract;

20 (4) an option for the purchase of real property when it is
21 acknowledged by the person granting the option;

22 (5) a certificate of a public official or an affidavit of a
23 person that may affect the title to or any interest in real property
24 in the state that is described in the certificate or affidavit,
25 stating facts relating to age, sex, birth, death, capacity, relation-
26 ship, family history, heirship, names, identity of parties, marital
27 status, possession or adverse possession, adverse use, residence,
28 service in the armed forces, conflicts and ambiguities in description
29 of land in recorded instruments, and the happening of a condition or

- 1 event that may terminate an estate or interest; a certificate or
2 affidavit recorded under this section must contain the recording
3 information of a recorded document referred to in it;
- 4 (6) an instrument by which a real property security agree-
5 ment is subordinated or waived as to priority;
- 6 (7) a document creating a condition, covenant, restriction,
7 or reservation relating to rights in real property;
- 8 (8) an assignment of all or part of a security interest in
9 real property;
- 10 (9) a release of lien or security interest in real prop-
11 erty;
- 12 (10) an exact or fully conformed copy of a document that is
13 otherwise recordable as a class A document under this section, when
14 the person offering the document attaches to it an affidavit that
- 15 (A) the exact or fully conformed copy was received by
16 the person in the course of the transaction;
- 17 (B) the original is not in the person's possession;
- 18 and
- 19 (C) the instrument offered for recordation is an exact
20 or fully conformed copy;
- 21 (11) a conveyance from the United States of an interest in
22 real property in the state;
- 23 (12) a certified copy of a petition in bankruptcy;
- 24 (13) a notice of an action previously filed and pending in a
25 court of the state or the United States affecting title to real prop-
26 erty in the state, if the notice contains the case number assigned by
27 the court and a description of the property affected in the recording
28 district;
- 29 (14) notice of an action for divorce, separate maintenance,

1 annulment, or dissolution of marriage previously filed and pending in
2 a court of any state or the United States affecting title to real
3 property in this state, if the notice contains the case number as-
4 signed by the court;

5 (15) notice of a pending judicial proceeding to compel
6 recording or indexing, if the notice contains the case number assigned
7 by the court;

8 (16) a certified copy of a judgment decree or order of a
9 court of a state in an action for divorce, separate maintenance,
10 annulment, or dissolution of marriage requiring the execution of a
11 conveyance of real property in this state;

12 (17) a list of real property granted by a governmental
13 entity to the state, a municipality, or a corporation;

14 (18) a conveyance executed by an officer of the state by
15 authority of law in the state;

16 (19) a notice limiting future advances under a recorded
17 security agreement;

18 (20) a certified copy of a judgment or decree of a court of
19 the state or of a court of record of the United States or a certified
20 copy of a satisfaction of judgment or decree;

21 (21) a certificate of attachment or an order or proceeding
22 of record discharging attachment;

23 (22) a condemnation order;

24 (23) a declaration of taking;

25 (24) a copy of the record of the meeting of a cemetery
26 association;

27 (25) a cooperative contract;

28 (26) a list of persons whose cooperative contracts have been
29 terminated;

- 1 (27) a letter of conservatorship;
- 2 (28) an employee's lien for failure to make payments to a
3 benefit fund;
- 4 (29) an employment security contributions lien;
- 5 (30) a verified workers' compensation lien;
- 6 (31) a mining claim, location, or lease;
- 7 (32) a grubstake contract;
- 8 (33) a mining assessment work affidavit;
- 9 (34) a notice to contribute or forfeit an interest in a
10 mining claim;
- 11 (35) a subdivision plat;
- 12 (36) a signed and sworn-to certificate of limited partner-
13 ship and a signed and sworn-to amendment to a certificate of limited
14 partnership;
- 15 (37) a declaration or amendments to a declaration under
16 AS 34.07 or AS 34.08, an instrument by which property may be removed
17 from the provisions of AS 34.07 or AS 34.08, and an instrument affect-
18 ing property controlled by AS 34.07 or AS 34.08; a declaration under
19 AS 34.08 may not be recorded unless it satisfies the requirements of
20 AS 34.08.090(b);
- 21 (38) a survey map and floor plan for a building under
22 AS 34.07, or a plat or plan for a common interest community under
23 AS 34.08;
- 24 (39) a substitution of trustee under a deed of trust, or
25 other person having a power of sale under a real property security
26 agreement, when executed and acknowledged by all the beneficiaries;
- 27 (40) notice and affidavits required in default and sale
28 under a deed of trust;
- 29 (41) a notice of right to mechanics' or materialmen's lien;

1 (42) an attested or notarized copy of a notice of nonrespon-
2 sibility for construction, alteration, or repair;

3 (43) an acknowledgment of right to mechanics' or material-
4 men's lien;

5 (44) a verified claim of lien under AS 34.35;

6 (45) a verified notice of completion of a building or im-
7 provement;

8 (46) a bond guaranteeing payment of the sum recovered on a
9 mechanics' or materialmen's lien;

10 (47) a notice extending a mechanics' or materialmen's lien;

11 (48) a state tax lien;

12 (49) a federal tax lien;

13 (50) an instrument transferring a water appropriation or a
14 certified copy of it;

15 (51) a financing statement covering goods that are or are to
16 become fixtures to real property described in the financing statement;
17 if the debtor does not have an interest of record in the real prop-
18 erty, the financing statement must show the name of the record owner
19 of the real property;

20 (52) an assignment of rent;

21 (53) a memorandum of lease as described in AS 40.17.120(b);

22 (54) a state highway right-of-way map;

23 (55) an armed forces report of separation;

24 (56) a document amending or correcting a recorded document
25 listed in this section if the amending or correcting document is exe-
26 cuted by the same parties who executed the original document; and

27 (57) a master form that can be incorporated by reference in
28 documents later recorded.

29 (c) A document specifically permitted or required to be recorded

1 by another law of the state or made recordable by regulation of the
2 department may be recorded.

3 Sec. 40.17.120. RECORDING MEMORANDUM OF LEASE. (a) Recording a
4 memorandum of lease substantially complying with (b) of this section
5 has the same effect as recording the lease.

6 (b) A memorandum of lease is a document signed by the lessor and
7 lessee and containing a reference to an unrecorded lease, sublease, or
8 agreement to lease or sublease, and supplying at least the following
9 information:

- 10 (1) the names of the parties;
- 11 (2) addresses of the parties set out in the lease;
- 12 (3) the date of the lease;
- 13 (4) a description of the real property leased or subleased;
- 14 (5) the commencement and termination dates of the lease if
15 fixed and, if not fixed, the method by which the dates are to be
16 fixed; and
- 17 (6) a statement of the conditions upon which a party may
18 exercise a right to extend or renew the lease or to exercise a right
19 to purchase or refuse to purchase the real property or part of it.

20 Sec. 40.17.130. ACTIONS AGAINST RECORDER AND STATE. (a) If the
21 recorder fails to record and index a document properly, the recorder
22 may be compelled to record and index the document properly by an
23 action filed in the superior court.

24 (b) The state is liable to a person injured by the failure of
25 the recorder to perform duties under this chapter. Neither the re-
26 corder nor a state employee performing duties of the recorder is
27 individually liable for a good faith error or omission made in the
28 course of employment.

29 Sec. 40.17.900. DEFINITIONS. In this chapter

1 (1) "acceptance" means the determination by the recorder
2 that a document is recordable under this chapter accompanied by mark-
3 ing an identifying code on the document and entering the document in a
4 daily log;

5 (2) "certified copy" means a copy of a document certified
6 as correct by the custodian or other person authorized to make the
7 certification;

8 (3) "conveyance" means a transfer of an interest in real
9 property other than by will or operation of law;

10 (4) "department" means the Department of Natural Resources;

11 (5) "document" means a writing, plat, plan, or map, and
12 includes information in a form, such as electronic, mechanical, or
13 magnetic storage; microfilm; or electronic data transmission signals,
14 that can be converted into legible writing, plat, plan, or map form by
15 a machine or device;

16 (6) "place of recording" means a place designated by the
17 department where documents recordable under this chapter are recorded;

18 (7) "record" means the acceptance of a document by the re-
19 corder that the recorder has determined is recordable under this
20 chapter and that is presented for recording in the place of recording
21 designated for the recording district where affected property is
22 located whether or not the place of recording is in that district, and
23 whether or not under applicable law the recorder is directed to record
24 the document;

25 (8) "recorder" means the commissioner of the department or
26 the commissioner's designee;

27 (9) "recording district" means a part of the state des-
28 ignated a recording district under AS 44.37.025; and

29 (10) "recording information" means information needed to

1 find a document in the public records such as book and page, document
2 number, electronic retrieval code, or other specific information.

3 * Sec. 2. AS 19.10.260 is amended to read:

4 Sec. 19.10.260. REPLACEMENT OF PERMANENT MARKERS AND FILING OF
5 RIGHT-OF-WAY MAP AFTER CONSTRUCTION. The department shall:

6 (1) replace all permanent markers on private or municipal
7 property that were destroyed or lost during highway construction to
8 permit persons to determine accurately new boundary lines resulting
9 from the construction;

10 (2) file and record in the local recording district, after
11 completion of highway construction, an accurate right-of-way map that
12 will contain sufficient engineering and survey information designating
13 where the resulting boundary lines are located on private or municipal
14 property along the highway.

15 * Sec. 3. AS 29.40.090(b) is amended to read:

16 (b) The platting authority shall waive the preparation, sub-
17 mission for approval, filing, and recording of a plat on satisfactory
18 evidence that the subdivision meets the requirements of (a) of this
19 section and each lot created by the subdivision is five acres or
20 larger.

21 * Sec. 4. AS 29.40.110(b) is amended to read:

22 (b) The platting authority shall state in writing its reasons
23 for disapproval of a plat. If the platting authority approves a plat,
24 the plat shall be acknowledged, [AND] filed, and recorded in accor-
25 dance with AS 40.15.010 - 40.15.020.

26 * Sec. 5. AS 29.40.150 is amended to read:

27 Sec. 29.40.150. RECORDING. If the alteration or replat is
28 approved, the revised plat shall be acknowledged, [AND] filed, and
29 recorded in accordance with AS 40.15.010 - 40.15.020.

1 * Sec. 6. AS 29.40.180 is amended to read:

2 Sec. 29.40.180. VIOLATIONS. The [IT IS UNLAWFUL FOR THE] owner
3 of land located in a subdivision may not [TO] transfer, sell, offer to
4 sell, or enter into a contract to sell land in a subdivision before a
5 plat of the subdivision has been prepared, approved, [AND] filed, and
6 recorded in accordance with this chapter. A [IT IS UNLAWFUL FOR A]
7 person may not [TO] file or record a plat or other document depicting
8 subdivided land in a public recorder's office unless the plat or
9 document has been approved by the platting authority. For the viola-
10 tion of a provision of this chapter, a subdivision regulation adopted
11 under this chapter, or a term, condition, or limitation imposed by a
12 platting authority in the exercise of its powers under this chapter, a
13 municipality may by ordinance prescribe a penalty not to exceed a fine
14 of \$1,000 and imprisonment for 90 days.

15 * Sec. 7. AS 30.13.080 is amended to read:

16 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the
17 legislature that a pledge made in respect of bonds is [SHALL BE]
18 perfected and [SHALL BE] valid and binding from the time the pledge is
19 made; that the money or property so pledged and thereafter received by
20 an authority is [SHALL] immediately [BE] subject to the lien of the
21 pledge without physical delivery or further act; and that the lien of
22 the pledge is [SHALL BE] valid and binding against all parties having
23 claims of any kind in tort, contract, or otherwise against the author-
24 ity [IRRESPECTIVE OF] whether or not the parties have notice. Neither
25 the resolution, trust agreement, or any other instrument by which a
26 pledge is created need be recorded or filed under the provisions of
27 the Uniform Commercial Code to be perfected or to be valid, binding,
28 or effective against the parties. This section does not affect title
29 to or conveyances of real property, and does not limit the

1 applicability of AS 40.17.080 [AS 34.15.290].

2 * Sec. 8. AS 34.07.020(14) is amended to read:

3 (14) a reference to the file number and recording informa-
4 tion for [OF] the floor plans of the building affected that [WHICH]
5 are required to be filed and recorded simultaneously with the declara-
6 tion under AS 34.07.030.

7 * Sec. 9. AS 34.07.030 is amended to read:

8 Sec. 34.07.030. FILING AND RECORDING OF SURVEY MAP AND FLOOR
9 PLANS WITH VERIFIED STATEMENT. There shall be filed and recorded
10 simultaneously with the recording of the declaration in the recording
11 district in which the property is located

12 (1) a survey map of the surface of the land submitted under
13 [TO] the provisions of this chapter showing the location of the build-
14 ing on it;

15 (2) a set of the floor plans of the building showing the
16 layout, apartment numbers and dimensions of the apartments in suffi-
17 cient detail to identify and locate each apartment with certainty,
18 stating the name of the building or that it has no name, and bearing
19 the verified statement of a registered architect or registered profes-
20 sional engineer certifying that it is an accurate copy of portions of
21 the plans of the building as filed with and approved by the govern-
22 mental entity having jurisdiction over the approval or issuance of
23 permits for the construction of the building, or a statement that no
24 approval or permit is required.

25 * Sec. 10. AS 34.07.040(a) is amended to read:

26 (a) If the floor plans do not include a verified statement by a
27 registered architect or registered professional engineer that the
28 plans fully and accurately depict the layout, apartment numbers, and
29 dimensions of the apartments as built, there shall be recorded before

1 the first conveyance of an apartment an amendment to the declaration
2 to which shall be attached a verified statement of a registered archi-
3 tect certifying that the plans previously filed and recorded or being
4 filed and recorded simultaneously with the amendment fully and accu-
5 rately depict the layout, apartment number and dimensions of the
6 apartments as built.

7 * Sec. 11. AS 34.07.050 is amended to read:

8 Sec. 34.07.050. FORM OF FLOOR PLANS. The recording office shall
9 prescribe the style, size, form, and quality of floor plans filed and
10 recorded under AS 34.07.030.

11 * Sec. 12. AS 34.08.090 is amended to read:

12 Sec. 34.08.090. CREATION OF COMMON INTEREST COMMUNITIES. (a) A
13 common interest community may be created under this chapter only by
14 recording a declaration executed in the same manner as a deed and, in
15 a cooperative, by conveying the real estate subject to the declaration
16 to the association. The declaration must be recorded, and a plat or
17 plan that is part of the declaration filed and recorded, in each
18 recording district in which a portion of the common interest community
19 is located and must be indexed in the grantee's index in the name of
20 the common interest community and the association and in the grantor's
21 index in the name of each person executing the declaration.

22 (b) In a condominium, a declaration or an amendment to a decla-
23 ration that adds a unit may not be recorded, and a plat or plan that
24 is part of the declaration may not be filed or recorded, unless the
25 structural components and mechanical systems of each building contain-
26 ing or comprising a unit of the condominium are completed substantial-
27 ly in accordance with the plans, as evidenced by a certificate of
28 completion recorded with the declaration or amendment to the declara-
29 tion and executed by

1 (1) an independent registered engineer, architect, or land
2 surveyor;

3 (2) an appraiser with the designation of Senior Residen-
4 tial Appraiser, Senior Real Property Appraiser, or Senior Real Estate
5 Analyst of the Society of Real Estate Appraisers;

6 (3) a Residential Member, or Member of the [,] Appraisal
7 Institute, of the American Institute of Real Estate Appraisers; or

8 (4) an individual with a designation established by regu-
9 lation of the Alaska Housing Finance Corporation for fee appraisers
10 who certify the completion of construction.

11 * Sec. 13. AS 34.08.140(b) is amended to read:

12 (b) After the declaration for a leasehold condominium or lease-
13 hold planned community is recorded, and a plat or plan that is part of
14 the declaration is filed and recorded, neither the lessor nor the
15 successor in interest of the lessor may terminate the leasehold inter-
16 est of a unit owner who makes timely payment of a unit owner's share
17 of the rent and otherwise complies with the covenants that, if violat-
18 ed, would entitle the lessor to terminate the lease. The leasehold
19 interest of a unit owner in a condominium or planned community is not
20 affected by the failure of any other person to pay rent or fulfill a
21 covenant.

22 * Sec. 14. AS 34.08.140(d) is amended to read:

23 (d) If the expiration or termination of a lease decreases the
24 number of units in a common interest community, the allocated inter-
25 ests must be reallocated under AS 34.08.740(a) as if the units had
26 been taken by eminent domain. The reallocation must be confirmed by
27 an amendment to the declaration prepared, executed, and recorded by
28 the association of unit owners; a plat or plan that accompanies the
29 amendment must be filed and recorded with the amendment.

1 * Sec. 15. AS 34.08.160(b) is amended to read:

2 (b) Except as the declaration otherwise provides, a limited
3 common element may be reallocated by an amendment to the declaration
4 executed by the unit owners between or among whose units the realloca-
5 tion is made. The persons executing the amendment shall provide a
6 copy of the amendment to the association, which shall record the
7 amendment and file and record a plat or plan that accompanies the
8 amendment [IT]. The amendment must be recorded, and an accompanying
9 plat or plan filed and recorded, in the names of the parties and the
10 common interest community.

11 * Sec. 16. AS 34.08.170(b) is amended to read:

12 (b) Each plat must show:

13 (1) the name and a survey or general schematic map of the
14 entire common interest community;

15 (2) the location and dimensions of the real estate not
16 subject to development rights or subject only to the development right
17 to withdraw, and the location and dimensions of each existing improve-
18 ment within the real estate;

19 (3) a legally sufficient description of the real estate
20 subject to development rights, labeled to identify the rights applic-
21 able to each parcel;

22 (4) the extent of each encroachment by or upon a portion
23 of the common interest community;

24 (5) to the extent feasible, a legally sufficient descrip-
25 tion of each easement serving or burdening a portion of the common
26 interest community;

27 (6) the location and dimensions of any vertical unit
28 boundaries not shown or projected on plans filed and recorded under
29 (d) of this section and the identifying number of the unit;

1 (7) the location with reference to an established datum of
2 any horizontal unit boundaries not shown or projected on plans filed
3 and recorded under (d) of this section and the identifying number of
4 the unit;

5 (8) a legally sufficient description of any real estate in
6 which the unit owners will own only an estate for years, labeled as
7 "leasehold real estate";

8 (9) the distance between noncontiguous parcels of real
9 estate comprising the common interest community;

10 (10) the location and dimensions of limited common ele-
11 ments, including porches, decks, balconies and patios, other than
12 parking spaces and the other limited common elements described in
13 AS 34.08.100(2) and (4);

14 (11) in the case of real estate not subject to development
15 rights, all other matters customarily shown on land surveys.

16 * Sec. 17. AS 34.08.170(f) is amended to read:

17 (f) Upon the exercise of a [ANY] development right, the declar-
18 ant shall either file and record new plats and plans necessary to
19 conform to the requirements of (a), (b), and (d) of this section, or
20 file and record new certifications of plats and plans previously filed
21 and recorded if the plats and plans otherwise conform to the require-
22 ments of (a), (b), and (d) of this section.

23 * Sec. 18. AS 34.08.170(h) is amended to read:

24 (h) The state recorder shall prescribe the style, size, form,
25 and quality of plats and plans filed and recorded under this chapter.

26 * Sec. 19. AS 34.08.180(a) is amended to read:

27 (a) To exercise a development right reserved under AS 34.08.-
28 130(a)(8), a declarant shall prepare, execute, and record an amendment
29 to the declaration, file and record a plat or plan that accompanies

1 the amendment, and, in a condominium or planned community, comply with
2 AS 34.08.170. The declarant is the unit owner of the units created
3 under the amendment. The amendment to the declaration must assign an
4 identifying number to each new unit created, and, except in the case
5 of subdivision or conversion of units described in (b) of this sec-
6 tion, reallocate the allocated interests among all units. The amend-
7 ment must describe any common elements and any limited common elements
8 created under the amendment and, in the case of limited common ele-
9 ments, designate the unit to which each is allocated to the extent
10 required by AS 34.08.160.

11 * Sec. 20. AS 34.08.200(b) is amended to read:

12 (b) The association

13 (1) in a condominium or planned community shall prepare,
14 file, and record plats or plans necessary to show the altered bound-
15 aries between adjoining units, and their dimensions and identifying
16 numbers; and

17 (2) in a cooperative shall prepare and record amendments
18 to the declaration, and file and record a plat or plan [INCLUDING ANY
19 PLANS,] necessary to show or describe the altered boundaries between
20 adjoining units [,] and their dimensions and identifying numbers.

21 * Sec. 21. AS 34.08.210(a) is amended to read:

22 (a) If the declaration expressly permits it, a unit may be
23 subdivided into two or more units. Upon application of a unit owner
24 to subdivide a unit, the association shall, subject to the provisions
25 of the declaration and other provisions of law, prepare, execute, and
26 record an amendment to the declaration subdividing the unit, including
27 in a condominium or planned community filing and recording a plat or
28 plan that accompanies the amendment [THE PLATS AND PLANS, SUBDIVIDING
29 THE UNIT].

1 * Sec. 22. AS 34.08.250(c) is amended to read:

2 (c) Each amendment to the declaration must be recorded, and a
3 plat or plan that accompanies the amendment filed and recorded, in
4 each recording district in which a portion of the common interest
5 community is located and the amendment is effective only upon record-
6 ing. An amendment, except an amendment under AS 34.08.200(a), must be
7 indexed in the name of the common interest community and the associa-
8 tion and in the name of the parties executing the amendment.

9 * Sec. 23. AS 34.08.320(a) is amended to read:

10 (a) Except as provided in (b) of this section and subject to the
11 provisions of the declaration, the association may:

12 (1) adopt and amend bylaws and rules and regulations;

13 (2) adopt and amend budgets for revenues, expenditures,
14 and reserves and collect assessments for common expenses from unit
15 owners;

16 (3) hire and discharge managing agents and other employ-
17 ees, agents, and independent contractors;

18 (4) institute, defend, or intervene in litigation or
19 administrative proceedings or seek injunctive relief for violations of
20 its declaration, bylaws or rules in its own name on behalf of itself
21 or two or more unit owners on matters affecting the common interest
22 community;

23 (5) make contracts and incur liabilities;

24 (6) regulate the use, maintenance, repair, replacement,
25 and modification of common elements;

26 (7) cause additional improvements to be made as a part of
27 the common elements;

28 (8) acquire, hold, encumber, and convey in its own name
29 any right, title, or interest to real estate or personal property,

1 except that

2 (A) common elements in a condominium or planned
3 community may be conveyed or subjected to a security interest
4 only under AS 34.08.430; and

5 (B) part of a cooperative may be conveyed or all or
6 part of a cooperative may be subjected to a security interest
7 only under AS 34.08.430;

8 (9) grant easements, leases, licenses, and concessions
9 through or over the common elements;

10 (10) impose and receive a payment, fee, or charge for the
11 use, rental, or operation of the common elements, other than limited
12 common elements described in AS 34.08.100(2) and (4), and for services
13 provided to unit owners;

14 (11) impose a reasonable charge for late payment of assess-
15 ments and, after notice and an opportunity to be heard, levy a reason-
16 able fine for a violation of the declaration, bylaws, rules, and
17 regulations of the association;

18 (12) impose a reasonable charge for the preparation and
19 recording of an amendment to the declaration, the filing and recording
20 of a plat or plan that accompanies an amendment, resale certificate
21 required by AS 34.08.590, or a statement of unpaid assessments;

22 (13) provide for the indemnification of its officers and
23 executive board and maintain directors' and officers' liability insur-
24 ance;

25 (14) assign its right to future income, including the right
26 to receive common expense assessments, but only to the extent the
27 declaration expressly permits the assignment;

28 (15) exercise any other powers conferred by the declaration
29 or bylaws;

1 (16) exercise any other power that may be exercised in the
2 state by a legal entity of the same type as the association; and

3 (17) exercise any other power necessary and proper for the
4 governance and operation of the association.

5 * Sec. 24. AS 34.08.440(h) is amended to read:

6 (h) A portion of the common interest community for which insur-
7 ance is required under this section that is damaged or destroyed must
8 be repaired or replaced promptly by the association unless (1) the
9 common interest community is terminated and AS 34.08.260 applies, (2)
10 repairs or replacement would be illegal under a state statute or
11 municipal ordinance governing health or safety, or (3) 80 percent of
12 the unit owners, including each owner of a unit or assigned limited
13 common element that will not be rebuilt, vote not to rebuild. The
14 cost of repair or replacement in excess of insurance proceeds and
15 reserves is a common expense. If the entire common interest community
16 is not repaired or replaced, (1) the insurance proceeds attributable
17 to the damaged common elements must be used to restore the damaged
18 area to a condition compatible with the remainder of the common inter-
19 est community, and (2) except to the extent that other persons will be
20 distributees, (A) the insurance proceeds attributable to a unit and
21 limited common elements that is not rebuilt must be distributed to the
22 owner of the unit and the owner of the unit to which the limited
23 common elements were allocated, or to lien holders, as their interests
24 may appear, and (B) the remainder of the proceeds must be distributed
25 to each unit owner or lien holder, as their interests may appear, as
26 follows: (i) in a condominium, in proportion to the common element
27 interest of all the units and (ii) in a cooperative or planned commun-
28 ity, in proportion to the common expense liabilities of all the units.
29 If the unit owners vote not to rebuild a unit, the allocated interests

1 of the unit are reallocated upon the vote as if the unit had been
2 condemned under AS 34.08.740(a), and the association promptly shall
3 prepare, execute [EXECUTED], and record an amendment to the declara-
4 tion reflecting the reallocations, and file and record a plat or plan
5 that accompanies the amendment.

6 * Sec. 25. AS 34.08.700 is amended to read:

7 Sec. 34.08.700. SUBSTANTIAL COMPLETION OF UNITS. In the sale of
8 a unit for which delivery of a public offering statement is required,
9 a contract of sale may be executed, but an interest in the unit may
10 not be conveyed until the declaration is recorded, a plat or plan that
11 accompanies the declaration is filed and recorded, and the unit is
12 substantially completed as evidenced by issuance of a certificate of
13 occupancy authorized by law or by a recorded certificate of substan-
14 tial completion executed by

15 (1) an independent registered engineer, architect, or land
16 surveyor;

17 (2) an appraiser with the designation of senior residen-
18 tial appraiser, senior real property appraiser₁ or senior real estate
19 analyst of the Society of Real Estate Appraisers;

20 (3) a residential member₁ or member of the [,] appraisal
21 institute, of the American Institute of Real Estate Appraisers; or

22 (4) an individual with a designation established by regu-
23 lation of the Alaska Housing Finance Corporation for fee appraisers
24 who certify the completion of construction.

25 * Sec. 26. AS 34.08.740(a) is amended to read:

26 (a) If a unit is acquired by eminent domain or part of a unit is
27 acquired by eminent domain leaving the unit owner with a remnant that
28 may not practically or lawfully be used for any purpose permitted by
29 the declaration, the award must include compensation to the unit owner

1 for that unit and its allocated interests, whether or not any common
2 elements are acquired. Upon acquisition, unless the decree otherwise
3 provides, the allocated interests of the unit are automatically real-
4 located to the remaining units in proportion to the respective allo-
5 cated interests of those units before the taking, and the association
6 shall promptly prepare, execute, and record an amendment to the decla-
7 ration reflecting the reallocations, and file and record a plat or
8 plan that accompanies the amendment. A remnant of a unit remaining
9 after part of a unit is taken under this subsection is a common ele-
10 ment from that time.

11 * Sec. 27. AS 34.08.990(30) is amended to read:

12 (30) "special declarant rights" means the right reserved
13 for the benefit of a declarant to

14 (A) complete improvements indicated on plats and
15 plans filed and recorded with the declaration or, in a coopera-
16 tive, to complete improvements described in the public offering
17 statement under [PURSUANT TO] AS 34.08.530(a)(2);

18 (B) exercise a development right;

19 (C) maintain sales offices, management offices, signs
20 advertising the common interest community, and models;

21 (D) use easements through the common elements for the
22 purpose of making improvements within the common interest commu-
23 nity or within real estate that may be added to the common inter-
24 est community;

25 (E) make the common interest community subject to a
26 master association;

27 (F) merge or consolidate a common interest community
28 with another common interest community of the same form of owner-
29 ship; or

1 (G) appoint or remove an officer of the association
2 or a master association or an executive board member during a
3 period of declarant control;

4 * Sec. 28. AS 34.15 is amended by adding a new section to read:

5 Sec. 34.15.015. USE OF RECORDED MASTER FORM. If reference is
6 made in a document to a recorded master form, a copy of the form, or
7 so much of it as is incorporated by reference, must be provided to
8 each party to the transaction by the party that furnished the docu-
9 ment.

10 * Sec. 29. AS 38.04.045(b) is amended to read:

11 (b) Before the conveyance of surface rights to state land, an
12 official cadastral survey shall be accomplished, unless a comparable,
13 acceptable survey exists that has been conducted by the federal Bureau
14 of Land Management. The rectangular survey section corner positions
15 shall be monumented and shown on a cadastral survey plat approved by
16 the state. However, for those areas where the state may wish to
17 convey surface estate outside of an official cadastral survey grid,
18 the director may waive monumentation of all individual section corner
19 positions and substitute an official control survey with control
20 points being monumented and shown on control survey plats approved by
21 the state. No portion of land to be conveyed may be located more than
22 two miles from such a survey control monument except that the commis-
23 sioner may waive this requirement on a determination that topographic
24 features, diffuse settlement, or the public interest do not justify
25 the requirement. The lots and tracts in state subdivisions shall be
26 monumented and the cadastral survey and plats for the subdivision
27 shall be approved by the state. Where land is located within a muni-
28 cipality with planning, platting, and zoning powers, plats for state
29 subdivisions shall comply with local ordinances and regulations in the

1 same manner and to the same extent as plats for subdivisions by other
2 landowners. State subdivisions shall be filed and recorded in the
3 district recorder's office. The requirements of this section do not
4 apply to land made available through a cabin permit system, material
5 sales, or short-term leases; however, for short-term leases the lessee
6 must comply with local subdivision ordinances unless waived by the
7 municipality under procedures specified by ordinance.

8 * Sec. 30. AS 40.15.010 is amended to read:

9 Sec. 40.15.010. APPROVAL, FILING, AND RECORDING OF SUBDIVISIONS.
10 Before the lots or tracts of any subdivision or dedication may be sold
11 or offered for sale, the subdivision or dedication shall be submitted
12 for approval to the authority having jurisdiction, as prescribed in
13 this chapter. The regular approval of the authority shall be shown on
14 it or attached to it and the subdivision or dedication shall be filed
15 and recorded [FOR RECORD] in the office of the recorder. The recorder
16 may [SHALL] not accept a subdivision or dedication for filing and
17 recording unless it shows this approval. If no platting authority
18 exists as provided in AS 40.15.070 - 40.15.130, lands may be sold
19 without approval.

20 * Sec. 31. AS 40.15.020 is amended to read:

21 Sec. 40.15.020. PLATS TO BE ACKNOWLEDGED AND CONTAIN CERTIFICATE
22 THAT TAXES AND ASSESSMENTS ARE PAID. Every plat shall be acknowledged
23 before an officer authorized to take acknowledgment of deeds. A cer-
24 tificate of acknowledgment shall be endorsed on or annexed to the plat
25 and recorded with it. A person filing and recording a plat, map, sub-
26 division, or replat of property, or vacating the whole or any portion
27 of an existing plat, map, subdivision, or replat shall [, AT THE TIME
28 OF FILING IT FOR RECORD OR FILING THE PETITION TO VACATE,] file and
29 record with it a certificate from the tax-collecting official or

1 officials of the area in which the land is located that all taxes
2 levied against the property at that date are paid.

3 * Sec. 32. AS 40.15.030 is amended to read:

4 Sec. 40.15.030. DEDICATION OF STREETS, ALLEYS AND THOROUGHFARES.
5 When an area is subdivided and a plat of the subdivision is approved,
6 filed, and recorded, all streets, alleys, thoroughfares, parks and
7 other public areas shown on the plat are considered to be [DEEMED TO
8 HAVE BEEN] dedicated to public use.

9 * Sec. 33. AS 40.15.040 is amended to read:

10 Sec. 40.15.040. CERTIFIED COPY OF PLAT AS [IS] EVIDENCE. A copy
11 of a plat certified by the recorder of the recording district in which
12 it is filed or recorded as a true and complete copy of the original
13 filed or recorded in the recording office for the district [ON FILE IN
14 HIS OFFICE] is admissible in evidence in all courts in the state with
15 the same effect as the original.

16 * Sec. 34. AS 40.15.050 is amended to read:

17 Sec. 40.15.050. [RECORDED] PLATS LEGALIZED. All plats filed or
18 recorded with the recorder [RECORDED] before March 30, 1953, whether
19 executed and acknowledged in accordance with this chapter or not, are
20 validated and all streets, alleys or public thoroughfares shown on
21 these plats are considered to be [AS HAVING BEEN] dedicated to public
22 use. [THIS SECTION DOES NOT PROHIBIT THE ABANDONMENT OF A PLAT RE-
23 CORDED BEFORE MARCH 30, 1953, IF A SUBSEQUENT PLAT IS FILED INDICATING
24 ABANDONMENT.] The last plat of the area of record on March 30, 1953,
25 is the official plat of the area as of that date, and the streets,
26 alleys, or thoroughfares shown on it are considered [DEEMED] to be
27 [THE STREETS, ALLEYS OR THOROUGHFARES] dedicated to public use. The
28 streets, alleys or thoroughfares shown on an earlier plat of the same
29 area or any part of it which is in conflict with those shown on the

1 official plat are considered to be [IS DEEMED TO HAVE BEEN] abandoned
2 and vacated.

3 * Sec. 35. AS 40.15.060 is amended to read:

4 Sec. 40.15.060. MISSING PLATS. When [WHERE] a filed or recorded
5 plat is missing and no present record is available except by reference
6 to the missing plat, a counterpart copy, approved by the platting
7 authority, may be filed and recorded as of the original date of the
8 missing plat and after filing and recording [RECORDATION] has the same
9 legal effect and notice as the original missing plat.

10 * Sec. 36. AS 40.15.070 is amended to read:

11 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be
12 subdivided or dedicated is situated within a first or second class
13 borough, the proposed subdivision or dedication shall be submitted to
14 the borough planning commission for approval. If the land is situated
15 within a city in the unorganized borough or the third class borough,
16 the proposed subdivision or dedication shall be submitted to the city
17 planning commission for approval. The borough planning commission is
18 the platting authority for the first or second class borough, the city
19 planning commission is the platting authority for the city, and the
20 Department of Natural Resources [DIVISION OF LANDS] is the platting
21 authority in the remaining areas of the state and third class borough
22 for the change or vacation of existing plats or a portion of such
23 plats, as provided in AS 40.15.075. If the borough or the city does
24 not have a planning commission, the borough assembly or the city
25 governing body, respectively, is the platting authority and the pro-
26 posed subdivision or dedication shall be submitted to it. A [NO]
27 subdivision may not be filed and recorded [FOR RECORD] until it is
28 approved by the platting authority.

29 * Sec. 37. AS 40.15.075 is amended to read:

1 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD
2 CLASS BOROUGHS. The Department of Natural Resources [DIVISION OF
3 LANDS] is the platting authority in the area outside organized bor-
4 oughs and outside cities in the unorganized borough and in the third
5 class borough for only the purposes of hearing and acting on petitions
6 for the change or vacation of plats and shall execute this function
7 substantially in conformity with the provisions of AS 29.40.130 -
8 29.40.160. Costs of publication and mailing authorized in AS 29.40.-
9 130 shall be paid to the Department of Natural Resources [DIVISION] by
10 the petitioner. The Department of Natural Resources shall adopt
11 reasonable regulations governing the exercise of the authority confer-
12 red by this section [UPON THE DIVISION OF LANDS].

13 * Sec. 38. AS 40 is amended by adding a new chapter to read:

14 CHAPTER 19. RECORDING FEDERAL LIENS.

15 Sec. 40.19.010. APPLICABILITY. The provisions of this chapter
16 apply to federal tax liens and to other federal liens notice of which
17 under an Act of Congress or a regulation adopted under the authority
18 of an Act of Congress is required or permitted to be filed or recorded
19 in the same manner as a notice of federal tax lien.

20 Sec. 40.19.020. PLACE OF RECORDING. (a) Notices of lien,
21 certificates, and other notices affecting a federal tax lien or other
22 federal lien shall be recorded under this chapter.

23 (b) Notices of lien upon real property for obligations payable
24 to the United States and certificates and notices affecting the lien
25 shall be recorded in the records of the recording district in which
26 the real property subject to the lien is situated.

27 (c) Notices of federal lien upon personal property, whether tan-
28 gible or intangible, for obligations payable to the United States and
29 certificates and notices affecting the lien shall be recorded in the

1 records of the recording district where the person against whose
2 interest the lien applies resides at the time of recording of the
3 notice of lien.

4 (d) For purposes of (c) of this section the residence of a cor-
5 poration or partnership is the place in which the principal executive
6 office of the business is located.

7 Sec. 40.19.030. EXECUTION OF NOTICES AND CERTIFICATES. Certi-
8 fication of notices of lien, certificates, or other notices affecting
9 federal liens by the United States Secretary of the Treasury or by the
10 designee of the United States Secretary of the Treasury, or by an
11 official or entity of the United States responsible for filing, re-
12 cording, or certifying, of notice of any other lien, entitles the
13 notices or certificates to be recorded and further attestation, certi-
14 fication, or acknowledgement is not necessary.

15 Sec. 40.19.040. DUTIES OF RECORDER. (a) If a notice of federal
16 lien, a rerecording of notice of federal lien, or a notice of revoca-
17 tion of a certificate described in (b) of this section is presented to
18 the recorder under AS 40.17, the recorder shall endorse on the notice
19 an identification and the date and time of recording and enter it
20 first in a daily log of class A documents and then in an alphabetical
21 index showing the name of the person named in the notice, the date and
22 time of recording, the title of the official or entity certifying the
23 lien, and the total amount appearing on the notice of lien.

24 (b) If a rerecorded notice of federal lien referred to in (a) of
25 this section or a certificate of release, nonattachment, discharge, or
26 subordination of lien or a revocation of any of these certificates is
27 presented to the recorder for recording, the recorder shall record it
28 in the way a document listed in (a) of this section would be recorded
29 and shall enter the rerecorded notice or the certificate or revocation

1 with the date of recording in the alphabetical index together with a
2 reference to the recording information for the original notice or
3 certificate to which it relates.

4 (c) A lien on file with records of a recording district on the
5 effective date of this section is considered to have been recorded at
6 the date and time it was filed.

7 (d) In this section "rerecording" includes recording of a lien
8 previously filed.

9 Sec. 40.19.050. UNIFORMITY OF APPLICATION AND CONSTRUCTION. To
10 the extent the provisions of this chapter follow the Uniform Federal
11 Lien Registration Act (1978) they shall be applied and construed to
12 effectuate their general purpose to make uniform the law with respect
13 to the subject of this chapter among the states enacting it.

14 * Sec. 39. AS 43.10.042 is repealed and reenacted to read:

15 Sec. 43.10.042. RECORDING LIEN AND CERTIFICATE OF DISCHARGE.

16 (a) A lien imposed under this title is not valid as against a mort-
17 gagee or other lien holder, pledgee, purchaser, or judgment creditor
18 until notice of it is recorded as a class A document in the records of
19 the recording district where the property subject to the lien is
20 situated. However, regardless of the date the liens are recorded, a
21 lien arising out of a tax due under AS 43.56 and AS 43.75, including
22 the penalties and interest on the tax, is a lien prior, paramount, and
23 superior to all other liens, mortgages, hypothecations, conveyances,
24 and assignments, upon all the real and personal property of the person
25 liable for the tax, and upon all the real and personal property used
26 with the permission of the owner to carry on the business that is
27 subject to the tax.

28 (b) AS 40.19.040 applies to a notice of state tax lien and
29 documents relating to a state tax lien as well as to a notice of

1 federal lien and documents relating to a federal lien.

2 * Sec. 40. AS 44.37.025 is amended to read:

3 Sec. 44.37.025. RECORDING. (a) The Department of Natural Re-
4 sources shall adopt regulations [,] establishing, modifying, or dis-
5 continuing recording districts or precincts and prescribing the re-
6 cords to be maintained and the instruments to be recorded, consistent
7 with AS 40.17.

8 (b) The department shall [ENGAGE AND COMPENSATE RECORDERS AND
9 DEPUTY RECORDERS,] prescribe and account for recording fees [,] and do
10 all other things necessary to maintain the recording system estab-
11 lished under the laws of this state. The commissioner of adminis-
12 tration shall separately account for fees collected under this section
13 that the Department of Natural Resources deposits in the general fund.
14 The annual estimated balance in the account may be used by the legis-
15 lature to make appropriations to the department to carry out the
16 purposes of this section.

17 (c) The department, with the concurrence of the administrative
18 director of courts, may appoint judicial employees to perform services
19 in connection with recording, providing access to, and copying [RE-
20 CORD] documents in locations where the department has no employees
21 available to perform those functions [SERVE AS RECORDERS].

22 (d) The department shall file with the commissioner of commerce
23 and economic development a copy of each conveyance recorded that
24 contains a statement that property is conveyed to a nonresident alien
25 or for the benefit of a nonresident alien.

26 * Sec. 41. In the following statutes the revisor of statutes is di-
27 rected to delete the requirement or permission that a document be filed or
28 filed for record and to substitute a corresponding requirement or permis-
29 sion that the document be recorded: AS 09.40.050; AS 09.55.370;

1 AS 10.15.230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.-
2 047; AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050,
3 27.10.060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.-
4 10.230; AS 32.10.010, 32.10.240; AS 34.07.020, 34.07.040, 34.07.050, 34.-
5 07.070; AS 34.20.090; AS 34.35.065, 34.35.160, 34.35.185, 34.35.240, 34.-
6 35.250, 34.35.305, 34.35.330, 34.35.405, 34.35.440; AS 38.05.195, 38.05.-
7 200, 38.05.205, 38.05.210, 38.05.220, 38.05.230, 38.05.245, 38.05.250,
8 38.05.265, 38.05.275; AS 38.20.100; AS 45.09.402(f); and AS 46.15.160.

9 * Sec. 42. AS 34.15.260, 34.15.270, 34.15.280, 34.15.290, 34.15.300,
10 34.15.310, 34.15.320, 34.15.330, 34.15.340, 34.15.345, 34.15.350; AS 34.-
11 20.020; AS 43.10.090, 43.10.100, 43.10.110, 43.10.120, 43.10.130, 43.10.-
12 140, and 43.10.150 are repealed.

13 * Sec. 43. This Act takes effect January 1, 1989.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

January 18, 1988

The Honorable Jack Coghill
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Coghill:

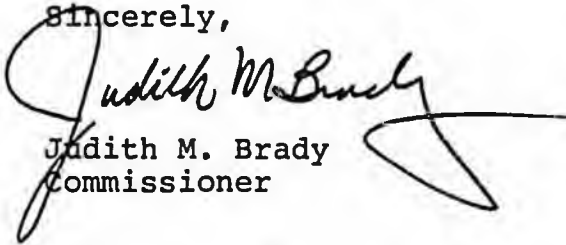
Your staff has requested a position statement on SB 304, An act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities.

A great deal of time and effort by the Code Revision Commission, the Fourteenth Alaska Legislature, the State Recorder's Office, the title industry, and others has been invested in this proposed legislation.

The Department supports this bill as written noting that a fiscal note will be required to handle the class B document provision of the bill. Should that section be deleted, no fiscal note will be required.

You may refer further questions to Sharon Barton, Director, Division of Management.

Sincerely,


Judith M. Brady
Commissioner

cc: Sharon L. Barton, Director, Division of Management

JMB/SLB/rlc